

HOUSE OF REPRESENTATIVES—Thursday, September 11, 1986

The House met at 9:30 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, may Your power be with us to give us strength for the day, may Your divine light be with us to lighten the road ahead, may Your forgiveness be with us to allow us to begin anew, and may Your love that passes all human understanding be with us and those we love. Hear our prayer, O God, and may Your spirit never depart from us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following title:

H.R. 1529. An act for the relief of Gerald M. Hendley;

H.R. 1783. An act for the relief of Mary E. Stokes;

H.R. 2316. An act for the relief of Paulette Mendes-Silva;

H.R. 3443. An act to designate the Closed Basin Conveyance Channel of the Closed Basin Division, San Luis Valley Project, Colorado as the "Franklin Eddy Canal"; and

H.J. Res. 580. Joint resolution to designate the week beginning September 7, 1986, as "National Freedom of Information Act Awareness Week."

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 405. Joint resolution to designate September 11, 1986, as "9-1-1 Emergency Number Day."

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that today when the Houses meet in joint meeting to receive the President of the Federative Republic of Brazil only the doors immediately opposite the Speaker and those on his left and right will be open.

RECESS

The SPEAKER. Pursuant to the order of the House of August 15, 1986, the House will stand in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 35 minutes a.m.), the House stood in recess subject to the call of the Chair.

JOINT MEETING OF THE HOUSE AND SENATE HELD PURSUANT TO THE ORDER OF THE HOUSE OF AUGUST 15, 1986, TO HEAR AN ADDRESS BY THE PRESIDENT OF THE FEDERATIVE REPUBLIC OF BRAZIL

The SPEAKER of the House presided.

The Doorkeeper announced the Vice President and Members of the U.S. Senate who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to conduct the President of the Federative Republic of Brazil into the Chamber:

The gentleman from Texas, Mr. WRIGHT;

The gentleman from Washington, Mr. FOLEY;

The gentleman from Florida, Mr. FASCELL;

The gentlewoman from Ohio, Ms. OAKAR;

The gentleman from California, Mr. COELHO;

The gentleman from Illinois, Mr. MICHEL;

The gentleman from Mississippi, Mr. LOTT; and

The gentleman from Michigan, Mr. BROOMFIELD.

The VICE PRESIDENT. The President of the Senate at the direction of that body appoints the following Senators as members of the committee on the part of the Senate to escort the President of the Federative Republic of Brazil into the Chamber:

The Senator from Kansas, Mr. DOLE;

The Senator from South Carolina, Mr. THURMOND;

The Senator from Rhode Island, Mr. CHAFEE;

The Senator from Minnesota, Mr. DURENBERGER;

The Senator from Hawaii, Mr. INOUE;

The Senator from Connecticut, Mr. DODD; and

The Senator from Illinois, Mr. SIMON.

The Doorkeeper announced the ambassadors, ministers, and charges d'affaires of foreign governments.

The ambassadors, ministers, and charges d'affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 10 o'clock and 1 minute a.m. the Doorkeeper announced the President of the Federative Republic of Brazil.

The President of the Federative Republic of Brazil, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege and I deem it a high honor and a personal pleasure to present to you his Excellency José Sarney, President of the Federative Republic of Brazil.

[Applause, the Members rising.]

ADDRESS BY HIS EXCELLENCY, JOSÉ SARNEY, PRESIDENT OF THE FEDERATIVE REPUBLIC OF BRAZIL, BEFORE THE JOINT MEETING OF THE UNITED STATES CONGRESS

(The following address was delivered in Portuguese except for that portion following the asterisk, which was delivered in English.)

President SARNEY. Mr. Speaker, Mr. Vice President, Members of Congress, it is difficult for a statesman from any part of the world to remain unmoved when received within these halls. It is difficult not to remember the lessons of the history and of the traditions of this Congress, since its origins in 18th-century Philadelphia, a Congress which has but one entrance and exit: The will of the people, free elections.

This country has faced crises, savored moments of triumph, and more than once tasted the bitterness of danger and mourning. It was heard the trumpets sound notes of rejoicing, and has shed bitter tears of sorrow. It

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

has known the ravages of war and the blessing of peace.

One institution has remained unchanged and resilient: The United States Congress.

We should keep in mind what Brogan said. At the time the Constitution was drawn up, there still ruled a French monarchy, a Roman emperor, a Venetian republic, and a German republic, an autocracy in St. Petersburg, a caliph in Constantinople, a divinely invested Emperor in Peking, and a shogun in what was then a weak and little-known Japan.

Times have changed, and rulers have changed, but the branches of government in the United States, since the Presidency of George Washington, have changed less than the forms of royal power in place not long ago in Tibet.

"All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

With these laconic words, the Founding Fathers devised the structure of these two legislative Chambers.

The whole world was inspired by your example.

In how many parts of the world, over two centuries, have dreamers, heroes, and martyrs not been drawn to the flame of your ideas of self-government?

Two hundred years ago, my country, Brazil, was a European colony. Since that distant time, the people of Brazil have felt close to the United States.

In 1787, the young Brazilian, José Joaquim Maia sought out Thomas Jefferson, then Minister Plenipotentiary in Paris, to ask his support for our independence. Two years later, our hero, Tiradentes, who dreamed of a free and republican Brazil, was hanged, drawn, and quartered, his severed body hung for all to see, in the streets and the roads, as a cruel example to smother the dream of freedom, and to declare that it would not come forth in our land.

Do you know what the King's agents found among the papers that had set the heart of our martyr afire with the holy madness of independence? The Constitution of the United States of America.

I have long been a legislator, a Representative and a Senator for 29 years. The Brazilian Congress was my school of political education. I pay tribute to the United States Congress, knowing what it represents. I am grateful for the kind gesture of this Joint Meeting of the Senate and House of Representatives. I could not come to this country without accepting this opportunity to renew faith in democracy.

I know that this warm welcome is a sign of friendship with Brazil.

Accept my gratitude, which I personally renew to Speaker O'NEILL and convey to all the Members of the

House of Representatives and of the Senate, who have honored me with the invitation to address this Joint Meeting.

Congress is a school for public life. It is greater than the sum of all its Members. This institution is the sovereignty of the people. One learns here to listen rather than to speak. To listen to all the voices, all the groups of society, all the emotions, all the injustices. Here, all decisions are questioned, and here are shaped the true sentiments of the democrat, which can be summarized in an example that is also yours: Benjamin Franklin. Frail at 81 years of age and unable to sign his name to the Constitution, he asked James Wilson to read what he had written for that occasion. What were his words?

"The older I become, the more I come to doubt my judgment, and the more I respect the judgment of others!"

This is the belief of a true democrat: To respect the opinions of others. Democracy has survived because it does not live by dogma, absolute truths, or inquisitions of faith. It is nurtured by the creative power of freedom of opinion, of initiative, of having, working, informing, believing, not believing, loving, dreaming.

Only he who has lost freedom knows its true value. And knows how difficult it is to regain it.

Brazil is a country of conciliation and dialog, a country that practices peace. The true name of peace is democracy, because democracy is understanding, the capacity to find solutions other than the solutions of might. This is why democracies do not make war on one another.

I am here in the United States at the invitation of President Ronald Reagan, who, with tenacity and leadership, governs this country at a time when the international situation raises great concern.

The 18th century Nation of farmers has become the most highly industrialized Nation in the world.

The country that sought at any price to avoid "foreign entanglements" has become a world power with global responsibilities.

In World War II, we fought as allies against Nazi-Fascism. Throughout its history, Brazil has admired the vigor of American democracy, the solidity of its institutions, the public spirit of its people, and the creativity of its artists, scientists, and intellectuals.

Starting from different cultural backgrounds, Brazil and the United States have grown together, both founded on shared values forged by the period during which we stepped onto the stage of history as independent nations: The values of the enlightenment, from which we drew our unwavering faith in reason, truth, peace, and concord.

Members of Congress,

That is the Brazil that I represent before you.

I have come here as the President of a country that has affinities with the United States, and which, neither humbly nor arrogantly, is quietly conscious of its place in history and its importance as the eighth largest economy of the Western world. I represent a great people, and I have come here to visit a great Nation. I bring you greetings from my countrymen and the wishes of the Brazilian people that this Nation will move onward in its course of greatness, a course that is necessarily guided by justice.

Brazil and the United States today come together in the practice of democracy, which is not only the most just and humane form of government, but also the strongest and most efficient.

Brazil has experienced 20 years of institutional difficulties.

In only 17 months of democracy, the civilian government has shown its ability to act with determination and courage. It dared to abandon indexation, the speculative attitude of a whole generation. It reduced hyperinflation from over 200 percent a year to less than 1 percent per month. It spurred the economy to grow again at a rate of 8 percent. It created hundreds of thousands of jobs. It restored the value of wages. It launched agrarian reform. It is raising social investment to 12.5 percent of gross domestic product, so that by the century's end, we will have attained standards of living comparable to those of southern Europe.

It has restored full political and trade union freedom. It has called elections for a constitutional assembly, in which 69 million Brazilians will cast their votes, a number larger than the population of any Western country with the exception of the United States.

All of this has been accomplished without trauma, without violence, and in keeping with the motto of the new republic: Conciliation and change.

The same constructive attitude is the foundation of our international conduct. Every facet of the new Brazil—political, economic, social—should find an international response to reinforce and foster it.

We strive for political peace and stability, economic growth and expansion, and an end to hunger, disease, ignorance, and poverty. We seek to play our part in the international system.

We have not come here to exact or demand from others what we ourselves do not practice. Rather, we wish to be judged by our actions, by what we are doing to achieve each of our goals.

Our relations of friendship and cooperation with 10 neighboring countries, along a border of more than

10,000 miles, strengthen a world held together by the art of negotiation.

Overcoming the rivalry or indifference of the past, we are building with Argentina a historic project of integration and development, which has been joined by Uruguay.

Abandoning a narrow and distorted interpretation of sovereignty, we have adhered to the international conventions on human rights and against torture.

We are proposing that the South Atlantic, between South America and Africa, be preserved as an area of peace and unity, free from nuclear weapons, as has already been done, with our participation, in the Treaty for the Prohibition of Nuclear Weapons in Latin America.

We are a member of the group that supports a peaceful and negotiated solution for Central America, and we have passed legislation with effective sanctions against apartheid.

We are a mixed race nation, and the world's second largest black nation, after Nigeria. We practice exemplary racial democracy.

All Brazilians are united in the task of rebuilding our country.

But we face a serious constraint—the volume of resources that the Brazilian economy has been transferring abroad yearly to service a burdensome foreign debt.

Last year, the sum of such transfers represented one-fourth of Brazil's gross domestic savings. It is clear that we cannot grow at the necessary and desirable rate if this continues.

It is a simple matter. To grow, we must import more and raise the investment rate.

In so doing, we will be buying more agricultural and industrial goods from our chief trading partners, especially from the largest, the United States of America.

Our demand for imports will thus help to reduce the trade deficit of this country.

Brazil has the potential for such cooperation. But at the same time, we will be reducing our trade surplus. In recent years, Brazil has maintained a trade surplus equivalent to nearly half its exports. In relative terms, very few countries have performed so well.

With this surplus, we have been meeting our debt service payments. If we reduce that surplus by increasing imports, we will necessarily curtail our ability to transfer resources as debt repayment. In other words, we will have to pay less for some time, to be able to import more. This is the only way we can attain targeted growth in the immediate future and reintegrate our country in the international economy in the medium and long term, without crises, shocks, or disruption, thus fulfilling our steadfast commitment to our people.

Latin America cannot survive on the poverty of a wage of \$25 per month. It is this criminal injustice that spawns social upheaval, revolt, and the resort to violence.

We have proposed repeatedly, in the appropriate fora, a joint effort by creditors and debtors. The high spreads charged by banks and high real interest rates impede the growth of the debtor countries, and thus the enhancement of their ability to pay. Unstable interest rates and exchange fluctuations hamper their economic and social development planning, since they cannot forecast their financial obligations and liquidity for the upcoming 6 months, much less for the next year.

It is necessary to promote an understanding among the leaders of creditor and debtor nations to reduce the magnitude of payments now being made. This would allow the debtor countries to again import more from the creditor countries, and their own growth can, in turn, contribute to the recovery and normalization of the world economy.

For our part, we are still prepared to engage in such a joint endeavor. But we must not wait until it is too late. We have urged our industrialized partners to join us now in such an effort to safeguard the financial health and stability of the Western World.

With respect to the larger question of rescuing man from poverty and suffering, I recognize that we have been able to do little beyond our borders. My government's priority has been to honor our most important debt: The social and moral debt we owe our own people. Still, we stand ready to do our part to even disparities of wealth, fight disease and ignorance, and eradicate drug traffic. I repeat here the appeal I made at the United Nations: That a dedicated battle be waged to banish the scourge of hunger from the face of the Earth.

Members of Congress,

On every aspect of the global agenda, Brazil stands for stability and peace, conciliation, and balance. We are a country that gives, that does not take away. A country that brings not problems, but answers.

Our ability to forge our own solutions to challenges was demonstrated by our peaceful transition to democracy, and by our nonrecessive fight against inflation.

We are confident in our strength, while acknowledging that we rely, as do all of us to some degree, on the forces and conditions of the international system.

Brazil has everything to succeed. It has everything that is needed to make the leap to full development in the near future.

There is ample investment opportunity in the country, open to private domestic and foreign investors.

In addition to a robust economy, abundant resources, diligent and skilled labor, and a modern infrastructure, investors will find that we have sound legislation on the treatment of foreign capital.

For more than 20 years, our legislation, in addition to being fair and flexible, has successfully guided our relations with foreign companies that bring us their capital, their technology, and their management skills. This relationship has been stable, transparent, and dependable. With the return of economic growth and with the political and social stability Brazil now enjoys, I am sure it will again attract growing flows of investment to participate in the development of our wealth.

Brazil's success threatens no one. It is rather a victory for those who believe in the power of man's work to overcome backwardness and underdevelopment.

Brazil's success will vindicate the Western values of pluralistic and participatory democracy, of a free and open society, of a creative market economy, in which the economic freedom of private enterprise is the guarantee of political freedom and the driving force of development.

We strongly desire a high degree of cooperation with the United States, the first country to recognize our independence, a country with which we have cultural, political, and economic ties.

Cooperation that unites a superpower with global interests to a Latin American nation advancing toward development and assuming greater responsibilities in the world.

For this relationship to prosper and grow stronger, each side must have the maturity to accept as natural the difficulties that may arise, respect for the legitimate interests and viewpoints of the other, and an ongoing openness to dialog and understanding.

This has been our tradition in the past, is our practice now, and our expectation for the future.

*Members of Congress, now, as we look toward the third millennium with the vitality and confidence of the youthful pioneer societies of the Americans, in my rough English spoken as a Brazilian from the northeast of my country, I would like to conclude by quoting the poet of democracy, the great Walt Whitman.

He wrote a poem to the Brazilian people to herald the birth of the Republic in 1889 that speaks to us still today. These are eternal verses that evoke freedom and democracy as forcefully as the lines of "When Lilacs Last in the Dooryard Bloomed":

"Welcome, Brazilian Brother, thy ample place is ready;
A loving hand, a smile from the north,
a sunny instant hail!

(let the future care for itself, where it reveals its troubles, impediments, ours, ours the present throe, the democratic aim, the acceptance and the faith);
to thee to-day our reaching arm, our turning neck—to thee from us the expectant eye,
thou cluster free! Thou brilliant lustrous one! thou, learning well, the true lesson of a nation's light in the sky,
(more shining than the cross, more than the crown),
the height to be superb humanity."

God bless the United States. God bless the Americas.

Thank you,
[Applause, the Members rising.]
At 10 o'clock and 31 minutes a.m., the President of the Federative Republic of Brazil, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The ambassadors, ministers, and charges d'affaires of foreign governments.

JOINT MEETING DISSOLVED

The SPEAKER. The purpose of the joint meeting having been completed, the Chair declares the joint meeting of the two Houses dissolved, and the House will meet in session at about 10:50 a.m.

Accordingly, at 10 o'clock and 34 minutes a.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

□ 1100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WRIGHT] at 11 a.m.

PRINTING OF PROCEEDINGS HAD DURING THE RECESS

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. LUNGREN. Mr. Speaker, I have a parliamentary inquiry, then hopefully a unanimous-consent request.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. LUNGREN. Mr. Speaker, my parliamentary inquiry is that under the rule House Resolution 541, which controls the debate on the antidrug bill, the first amendment in order is from the gentleman from Texas [Mr. WRIGHT], which is an amendment en bloc, including amendments of other Members.

My inquiry is, if one wished to have a separate consideration of one of the included amendments, that is, amendment No. 5 from the gentleman from Connecticut [Mr. MORRISON], would it be appropriate at this time to make the unanimous-consent request for separate consideration of such an amendment, along with the request that a limit of no more than 10 minutes, equally divided, be allowed for that amendment?

The SPEAKER pro tempore. Such a request would be in order and the Chair would respond that under the rule, that is the only manner in which such a result might be achieved prior to going into the Committee of the Whole.

Mr. LUNGREN. Mr. Speaker, I appreciate that instruction.

REQUEST FOR SEPARATE CONSIDERATION OF A CERTAIN AMENDMENT TO H.R. 5484 NOTWITHSTANDING ITS INCLUSION AS PART OF THE WRIGHT AMENDMENTS

Mr. LUNGREN. Mr. Speaker, I ask unanimous consent that in the amendments en bloc from the gentleman from Texas [Mr. WRIGHT], including several other amendments, that amendment No. 5, the amendment from the gentleman from Connecticut [Mr. MORRISON], be separately considered and voted on, that separate debate be allowed on that amendment not to exceed 10 minutes equally divided between proponents and opponents, and that that consideration take place immediately following the en bloc amendments of the gentleman from Texas.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MORRISON of Connecticut. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

OMNIBUS DRUG ENFORCEMENT, EDUCATION, AND CONTROL ACT OF 1986

The SPEAKER pro tempore. Pursuant to House Resolution 541 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5484.

□ 1103

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes, with Mr. CARR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose Wednesday, September 10, 1986, all time for general debate had expired.

Pursuant to House Resolution 541, the bill is considered as having been read for amendment under the 5-minute rule.

The amendments printed in section 2 of House Resolution 541 are considered as having been adopted.

The text of H.R. 5484, as amended by the amendments contained in section 2 of House Resolution 541, is as follows:

H.R. 5484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE: TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Drug Enforcement, Education, and Control Act of 1986".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—COMMITTEE ON FOREIGN AFFAIRS

Sec. 101. Short title.

Sec. 102. Statement of policy.

Sec. 103. Statement of purpose.

Subtitle A—International Narcotics Control Assistance Program

Sec. 111. Additional funding for international narcotics control assistance and regional cooperation.

Sec. 112. Additional aircraft for drug control eradication and interdiction efforts by foreign countries.

Sec. 113. Retention of title to aircraft provided to foreign countries for narcotics control purposes.

Sec. 114. Records of aircraft use.

Sec. 115. Pilot and aircraft maintenance training for narcotics control activities.

Sec. 116. Development of herbicides for aerial coca eradication.

Sec. 117. Review of effectiveness of international narcotics control assistance program.

Subtitle B—Improving Law Enforcement and Other Narcotics Control Activities Abroad

- Sec. 121. Extradition to the United States for narcotics-related offenses.
- Sec. 122. Issuance of diplomatic passports for Drug Enforcement Administration agents abroad.
- Sec. 123. Restrictions on participation of United States personnel in arrest actions in narcotics control efforts abroad.
- Sec. 124. Information-sharing so that visas are denied to drug traffickers.
- Sec. 125. Information relating to illicit narcotics activities abroad.
- Sec. 126. Combating narcoterrorism.
- Sec. 127. Interdiction procedures for vessels of foreign registry.
- Sec. 128. Armed forces assistance for law enforcement activities abroad—concurrence of Secretary of State.

Subtitle C—Development and Illicit Narcotics Production and Trafficking

- Sec. 131. Findings.
- Sec. 132. Consultation and authorities relating to agricultural research and pilot program activities to encourage substitution for narcotic crops in Mexico.
- Sec. 133. Annual reports on development efforts to reduce narcotics production and trafficking.

Subtitle D—Drug Education Programs Abroad

- Sec. 141. Increased funding for USIA drug education programs.
- Sec. 142. Increased funding for AID drug education programs.
- Sec. 143. Reports to Congress on drug education programs abroad.

Subtitle E—United Nations Activities Relating to Drug Narcotics Control

- Sec. 151. Findings.
- Sec. 152. International Conference on Drug Abuse and Illicit Trafficking.
- Sec. 153. Effectiveness of international drug prevention and control system.
- Sec. 154. Narcotics control conventions.

Subtitle F—Provisions Relating to Specific Countries

- Sec. 161. Narcotics control efforts in Mexico.
- Sec. 162. Mexico-United States Intergovernmental Commission.
- Sec. 163. Opium production in Pakistan.
- Sec. 164. Opium production in Iran, Afghanistan, and Laos.

TITLE II—COMMITTEE ON ARMED SERVICES

- Sec. 201. Short title.
- Sec. 202. Policy.
- Sec. 203. Drug enforcement equipment.
- Sec. 204. Coast Guard activities.
- Sec. 205. Drug interdiction assistance to civilian law enforcement officials.
- Sec. 206. Military personnel.

TITLE III—COMMITTEE ON WAYS AND MEANS

Subtitle A—Amendments to the Tariff Act of 1930

- Sec. 300. Short title.
- PART I—GENERAL PROVISIONS**
- Sec. 301. Reference.
- Sec. 302. Prohibition on importation of drug paraphernalia.
- Sec. 303. Definitions.

- Sec. 304. Report of arrival of vessels, vehicles, and aircraft.
- Sec. 305. Penalties for arrival, reporting, entry, and departure violations.
- Sec. 306. Increase in penalties for unauthorized unloading of passengers.
- Sec. 307. Reporting requirements for individuals.
- Sec. 308. Examination of books and witnesses.
- Sec. 309. Penalties for falsity or lack of manifest.
- Sec. 310. Penalties for unlawful unloading and transshipment.
- Sec. 311. Aviation smuggling.
- Sec. 312. Seizures.
- Sec. 313. Searches and seizures.
- Sec. 314. Forfeitures.
- Sec. 315. Disposition of proceeds of forfeited property.
- Sec. 316. Compensation to informers.
- Sec. 317. Commencement of actions.
- Sec. 318. Foreign landing certificates.
- Sec. 319. Exchange of information with foreign agencies.
- Sec. 320. Inspections and preclearance in foreign countries.
- Sec. 321. Investigations; oath; subpoenas; etc.
- Sec. 322. Undercover investigative operations of the Customs Service.
- Sec. 323. Effective date.

PART II—CUSTOMS FORFEITURE FUND

- Sec. 331. Customs forfeiture fund.
- Subtitle B—Customs Service Authorizations, Miscellaneous Customs Provisions, and Amendments to the Controlled Substances Import and Export Act**

PART I—CUSTOMS SERVICE AUTHORIZATIONS

- Sec. 341. Authorization of appropriations for fiscal year 1987 for the United States Customs Service.

PART II—MISCELLANEOUS CUSTOMS AMENDMENTS

- Sec. 351. Treatment of hovering vessels.
- Sec. 352. Assistance for customs officers.
- Sec. 353. Recreational vessel licenses.

PART III—AMENDMENTS TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT

- Sec. 361. Possession, manufacture, or distribution for purposes of unlawful importation.

Subtitle C—Denial of Trade Benefits to Uncooperative Drug Source Nations

- Sec. 371. Short title.
- Sec. 372. Determinations regarding uncooperative drug source nations.
- Sec. 373. Tariff treatment of products of uncooperative drug source nations.
- Sec. 374. Progress reports.
- Sec. 375. Cancellation of determinations.
- Sec. 376. Definition.
- Sec. 377. Conforming amendments.

TITLE IV—COMMITTEE ON MERCHANT MARINE AND FISHERIES

- Sec. 401. Short title.
- Sec. 402. Findings and policy.
- Sec. 403. Maritime air surveillance and interdiction.
- Sec. 404. Authorization of funds.
- Sec. 405. Authorization enhancement.

TITLE V—COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Subtitle A—Money Laundering

- Sec. 501. Short title.
- Sec. 502. Structuring transactions to evade reporting requirements prohibited.

- Sec. 503. Seizure and civil forfeiture of monetary instruments.
- Sec. 504. Civil money penalty for structured transaction violation.
- Sec. 505. Banking regulatory agency supervision of recordkeeping systems.
- Sec. 506. Financial institutions and monetary instruments.
- Sec. 507. Additional review time under the change in Bank Control Act and change in Savings and Loan Control Act.
- Sec. 508. Monetary transaction recordkeeping and reporting amendments.
- Sec. 509. Clarification of "state of mind" standard in effect for civil money and criminal penalties.
- Sec. 510. Amendments to the Right to Financial Privacy Act.
- Sec. 511. Compliance authority for Secretary of the Treasury and related matters.
- Sec. 512. Amendments relating to exemptions granted for monetary transaction reporting requirements.
- Sec. 513. Penalties for failure to comply with certain recordkeeping requirements.
- Sec. 514. Extension of time limitations for assessment of civil penalty.
- Sec. 515. Duty to investigate applicants for change in control approval.
- Sec. 516. Public comment on change of control notices.
- Sec. 517. Investigations and enforcement under the change in control acts.
- Sec. 518. Discussions to develop international information exchange system to eliminate money laundering.
- Sec. 519. Increase in maximum criminal fine for certain offenses.
- Sec. 520. Regulations relating to cumulation of offenses for failure to report export or import of money.
- Sec. 521. Effective dates.

Subtitle B—Multilateral Development Banks

- Sec. 531. Short title.
- Sec. 532. Findings and purposes.
- Sec. 533. National drug eradication programs in developing countries.
- Sec. 534. Conforming amendments.

TITLE VI—COMMITTEE ON THE JUDICIARY

Subtitle A—Money Laundering

- Sec. 601. Short title.
- Sec. 602. Money laundering offenses.
- Sec. 603. Disclosure of information by financial institutions.

Subtitle B—Designer Drugs

- Sec. 605. Short title.
- Sec. 606. Inclusion of designer drugs in Controlled Substances Act.

Subtitle C—More Effective Criminal Penalties

- Sec. 607. Short title.
- PART I—CONTROLLED SUBSTANCES PENALTIES**
- Sec. 608. Penalties for major traffickers, penalties for serious traffickers, and other penalty increase amendments to section 401 of the Controlled Substances Act.
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PART VI—INDIAN ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION

Sec. 1125. Review of programs.

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Sec. 1131. Short title.

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Sec. 1141. Short title.

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TITLE XII—COMMITTEE ON GOVERNMENT OPERATIONS

Sec. 1201. Short title.

Sec. 1202. Findings.

Sec. 1203. Submission of legislation.

TITLE I—COMMITTEE ON FOREIGN AFFAIRS

SEC. 101. SHORT TITLE.

This title may be cited as the "International Narcotics Control Act of 1986".

SEC. 102. STATEMENT OF POLICY.

The Congress finds that—

(1) inadequate enforcement and eradication efforts have contributed to the rampant production of and trafficking in illicit narcotic drugs;

(2) such drug production and trafficking constitutes a clear and present danger to the international community;

(3) illegal narcotics production and trafficking operations seriously threaten national and regional political stability;

(4) it should be United States policy to assist the major drug producing and trafficking countries effectively to carry out their own enforcement and eradication efforts; and

(5) United States narcotics control assistance should be designed to facilitate the formation of regional solutions for combatting the threats posed by illegal cultivation, production, and trafficking of narcotic drugs.

SEC. 103. STATEMENT OF PURPOSE.

(a) PURPOSE.—The purpose of this title is to promote, through international and regional cooperation, the eventual elimination of narcotics production and trafficking (with assistance from the United States where appropriate) in order that all countries meet their international obligations with respect to narcotics control efforts.

(b) RELATION OF UNITED STATES ASSISTANCE PROGRAMS TO IMPLEMENTATION OF NAR-

COTICS CONTROL EFFORTS.—In recognition of the threat posed by the international narcotics trade, the Congress declares that frustration of the purpose of this title by lack of cooperation from another country would provide a basis for promptly implementing section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h); relating to suspension of United States assistance).

Subtitle A—International Narcotics Control Assistance Program

SEC. 111. ADDITIONAL FUNDING FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE AND REGIONAL COOPERATION.

Section 482(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291a(a)(1); authorizing appropriations for assistance for international narcotics control) is amended—

(1) by striking out "\$57,529,000 for the fiscal year 1987" and inserting in lieu thereof "\$65,445,000 for the fiscal year 1987"; and

(2) by adding at the end the following: "In addition to the amounts authorized by the preceding sentence, there are authorized to be appropriated to the President \$35,000,000 for the fiscal year 1987 to carry out the purposes of section 481, except that funds may be appropriated pursuant to this additional authorization only if the President has submitted to the Congress (A) a budget request for the appropriation of those funds, and (B) a plan showing how the requested funds will be used, including a description of how regional cooperation on narcotics control matters would be promoted by the use of those funds."

SEC. 112. ADDITIONAL AIRCRAFT FOR DRUG CONTROL, ERADICATION AND INTERDICTION EFFORTS BY FOREIGN COUNTRIES.

(a) AUTHORIZATION OF ADDITIONAL FUNDS.—Not less than \$10,000,000 of the funds available for fiscal year 1987 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.; relating to grant military assistance) shall be available only to provide helicopters or other aircraft to countries receiving assistance for fiscal year 1987 under chapter 8 of part I of that Act (22 U.S.C. 2291 et seq.; relating to international narcotics control). These aircraft shall be used solely for the purpose of and solely in narcotics control eradication and interdiction efforts.

(b) EARMARKING FOR AIRCRAFT FOR REGIONAL USE.—Not less than half of the funds used pursuant to subsection (a) shall be used for aircraft which will be based in Latin America and will be available for eradication and interdiction efforts throughout the region.

(c) RELATIONSHIP TO INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—The aircraft made available pursuant to subsection (a) are in addition to any aircraft made available under chapter 8 of part I of the Foreign Assistance Act of 1961. Assistance pursuant to subsection (a) shall be administered and provided in accordance with the authorities of that chapter, rather than the authorities of chapter 2 of part II of that Act.

SEC. 113. RETENTION OF TITLE TO AIRCRAFT PROVIDED TO FOREIGN COUNTRIES FOR NARCOTICS CONTROL PURPOSES.

Chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to the international narcotics control assistance program) is amended by adding at the end the following new section:

"SEC. 181. RETENTION OF TITLE TO AIRCRAFT.

"Any aircraft made available to a foreign country under this chapter at any time

after the enactment of this section (including aircraft made available pursuant to section 102 of the International Narcotics Control Act of 1986) shall be provided only on a lease or loan basis."

SEC. 114. RECORDS OF AIRCRAFT USE.

Chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to the international narcotics control assistance program), as amended by the preceding section of this title, is further amended by adding at the end the following new section:

"SEC. 185. RECORDS OF AIRCRAFT USE.

"(a) REQUIREMENT TO MAINTAIN RECORDS.—The Secretary of State shall maintain detailed records on the use of any aircraft made available to a foreign country under this chapter, including aircraft made available pursuant to section 102 of the International Narcotics Control Act of 1986 and aircraft made available under this chapter before the enactment of this section.

"(b) CONGRESSIONAL ACCESS TO RECORDS.—The Secretary of State shall make the records maintained pursuant to subsection (a) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate."

SEC. 115. PILOT AND AIRCRAFT MAINTENANCE TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) EARMARKING OF FUNDS.—Not less than \$2,000,000 of the funds made available for fiscal year 1987 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training) shall be available only for education and training in the operation and maintenance of aircraft used in narcotics control interdiction and eradication efforts.

(b) RELATIONSHIP TO INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of that Act (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(c) WAIVER OF SECTION 660.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to police training).

SEC. 116. DEVELOPMENT OF HERBICIDES FOR AERIAL COCA ERADICATION.

The Secretary of State shall use not less than \$1,000,000 of the funds made available for fiscal year 1987 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control) to finance research on and the development and testing of safe and effective herbicides for use in the aerial eradication of coca.

SEC. 117. REVIEW OF EFFECTIVENESS OF INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.

(a) REQUIREMENT FOR INVESTIGATION.—The Comptroller General shall conduct a thorough and complete investigation to determine the effectiveness of the assistance provided pursuant to chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(b) REPORTS TO CONGRESS.—

(1) PERIODIC REPORTS.—The Comptroller General shall report to the Congress periodically as the various portions of the inves-

tigation conducted pursuant to subsection (a) are completed.

(2) **FINAL REPORT.**—Upon completion of the investigation, the Comptroller General shall submit a final report to the Congress on the results of the investigation. This report shall include such recommendations for administrative or legislative action as the Comptroller General finds appropriate based on the investigation.

Subtitle B—Improving Law Enforcement and Other Narcotics Control Activities Abroad

SEC. 121. EXTRADITION TO THE UNITED STATES FOR NARCOTICS-RELATED OFFENSES.

Section 481(e)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(3); relating to the annual international narcotics control report) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) A discussion of the extent to which such country has cooperated with the United States narcotics control efforts through the extradition or prosecution of drug traffickers, and a description of the status of negotiations with such country to negotiate a new or updated extradition treaty relating to narcotics offenses."

SEC. 122. ISSUANCE OF DIPLOMATIC PASSPORTS FOR DRUG ENFORCEMENT ADMINISTRATION AGENTS ABROAD.

The Congress commends the decision of the Secretary of State to issue diplomatic passports, rather than official passports, to officials and employees of the Drug Enforcement Administration who are assigned abroad. The Secretary shall report to the Congress before making any change in this policy.

SEC. 123. RESTRICTIONS ON PARTICIPATION OF UNITED STATES PERSONNEL IN ARREST ACTIONS IN NARCOTICS CONTROL EFFORTS ABROAD.

Section 481(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(c); commonly known as the Mansfield amendment) is amended to read as follows:

"(c)(1) Notwithstanding any other provision of law, no officer or employee of the United States may engage or participate in any direct police arrest action in any foreign country with respect to narcotics control efforts, except that this paragraph does not apply in the case of a foreign country with respect to which the Secretary of State has made the determinations described in paragraph (2).

"(2) Paragraph (1) shall not apply, and paragraph (3) shall apply, with respect to a foreign country if the Secretary of State determines that the application of the prohibition in paragraph (3) rather than the prohibition in paragraph (1) with respect to that country—

"(A) would be in the United States national interest, and

"(B) would not harm United States relations with that country.

The Secretary shall keep the Congress fully informed of determinations made under this paragraph and of the activities carried out by officers and employees of the United States pursuant to those determinations.

"(3) In the case of a foreign country with respect to which the Secretary of State has made the determinations described in paragraph (2), an officer or employee of the United States may not directly effect an arrest in that country as part of any foreign police action with respect to narcotics control efforts, notwithstanding any other provision of law. This paragraph does not prohibit an officer or employee from assisting foreign officers who are effecting an arrest.

"(4) Paragraphs (1) and (3) do not prohibit an officer or employee from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public.

"(5) No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person.

"(6) This subsection shall not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces arrangements."

SEC. 124. INFORMATION-SHARING SO THAT VISAS ARE DENIED TO DRUG TRAFFICKERS.

(a) **NEED FOR COMPREHENSIVE INFORMATION SYSTEM.**—The Congress is concerned that the executive branch has not established a comprehensive information system on all drug arrests of foreign nationals in the United States so that information may be communicated to the appropriate United States embassies, even though the establishment of such a system is required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

(b) **ESTABLISHMENT OF SYSTEM.**—The executive branch shall act expeditiously to establish the comprehensive information system required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, and submit to the Congress a report that the system has been established.

SEC. 125. INFORMATION RELATING TO ILLICIT NARCOTICS ACTIVITIES ABROAD.

(a) **NEED FOR INCREASED PRIORITY.**—The Congress urges the President to direct the appropriate Federal officials to give greater priority to the collection and sharing of information concerning narcotics-related activities abroad, including information relevant to estimating illicit drug production and information relevant to narcotics-related money laundering.

(b) **ASSESSMENT OF NARCOTICS TRAFFICKING FROM AFRICA.**—In particular, the President shall direct that an updated threat assessment of narcotics trafficking from Africa be prepared. If it is determined that an increased threat exists, the assessment shall examine the need for the United States to provide increased narcotics control training for African countries.

SEC. 126. COMBATING NARCOTERRORISM.

(a) **FINDING.**—The Congress finds that the increased cooperation and collaboration between narcotics traffickers and terrorist groups constitutes a serious threat to United States national security interests and to the political stability of numerous other countries, particularly in Latin America.

(b) **IMPROVED CAPABILITY FOR RESPONDING TO NARCOTERRORISM.**—The President shall take concrete steps to improve the capability of the executive branch—

(1) to collect information concerning the links between narcotics traffickers and acts of terrorism abroad, and

(2) to develop an effective and coordinated means for responding to the threat which those links pose.

Not later than 90 days after the date of enactment of this title, the President shall report to the Congress on the steps taken pursuant to this subsection.

(c) **ADMINISTRATION OF JUSTICE PROGRAM.**—Of the amounts made available for fiscal

year 1987 to carry out section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c; relating to the administration of justice program), up to \$2,000,000 is authorized to be used to provide to Colombia or other countries in the region such assistance as they may request for protection of judicial or other officials who are targets of narcoterrorist attacks. Such assistance may include assistance to increase the investigative, judicial, or prosecutorial capabilities of those countries with respect to narcoterrorist attacks.

SEC. 127. INTERDICTION PROCEDURES FOR VESSELS OF FOREIGN REGISTRY.

(a) **FINDINGS.**—The Congress finds that—

(1) the interdiction by the United States Coast Guard of vessels suspected of carrying illicit narcotics can be a difficult procedure when the vessel is of foreign registry and is located beyond the customs waters of the United States;

(2) before boarding and inspecting such a vessel, the Coast Guard must obtain consent from either the master of the vessel or the country of registry; and

(3) this process, and obtaining the consent of the country of registry to further law enforcement action, may delay the interdiction of the vessel by 3 or 4 days.

(b) **NEGOTIATIONS CONCERNING INTERDICTION PROCEDURES.**—

(1) The Congress urges the Secretary of State, in consultation with the Secretary of the department in which the Coast Guard is operating, to increase efforts to negotiate with relevant countries procedures which will facilitate interdiction of vessels suspected of carrying illicit narcotics.

(2) If a country refuses to negotiate with respect to interdiction procedures, the President shall take appropriate actions directed against that country, which may include the denial of access to United States ports to vessels registered in that country.

(3) The Secretary of State shall submit reports to the Congress semiannually identifying those countries which have failed to negotiate with respect to interdiction procedures.

SEC. 128. ARMED FORCES ASSISTANCE FOR LAW ENFORCEMENT ACTIVITIES ABROAD—CONCURRENCE OF SECRETARY OF STATE.

Section 374(c)(1)(B) of title 10, United States Code, is amended by striking out "and the Attorney General" and insert in lieu thereof ", the Attorney General, and the Secretary of State".

Subtitle C—Development and Narcotics Production and Trafficking

SEC. 131. FINDINGS.

The Congress finds that—

(1) increased narcotics cultivation and trafficking in developing countries is associated with declining economic opportunities in those countries, and particularly with decreasing youth employment opportunities and migration of small farmers to narcotics-producing areas to take advantage of economic opportunities that are not available in legitimate agriculture; and

(2) priority in United States development assistance policy should be given to employment-generation and to increasing the incentives for people to remain engaged in legitimate agriculture by increasing the resources available to them and enhancing their ability to make an adequate living.

SEC. 132. CONSULTATION AND AUTHORITIES RELATING TO AGRICULTURAL RESEARCH AND PILOT PROGRAM ACTIVITIES TO ENCOURAGE SUBSTITUTION FOR NARCOTIC CROPS IN MEXICO.

(a) FINDINGS AND PURPOSE.—

(1) The Congress finds that—

(A) the widespread geographic distribution of narcotic crop production in Mexico indicates that there likely are numerous other crops that could be substituted for such narcotic crops,

(B) there are other indications that substitute crops can be grown successfully and profitably under local conditions in Mexico,

(C) the Department of Agriculture has crop development, research, extension, and teaching resources that could be made available to assist Mexico implement a narcotic crop substitution program,

(D) a successful program to encourage substitute cropping in Mexico would effectively contribute to reducing the availability of illegal drugs in the United States, and

(E) substitute cropping in Mexico should be evaluated and considered for potential use in an overall cooperative program to eradicate the production of illegal drugs.

(2) The purpose of this section is to foster a program to encourage the substitution of selected crops for narcotic crops in Mexico used for the production of illegal drugs and to authorize agricultural research and pilot program activities related to demonstrating the feasibility of such substitute cropping.

(b) CONSULTATION.—The Secretary of State, with the assistance of the Secretary of Agriculture, shall consult with the appropriate authorities of the Government of Mexico on—

(1) the development and implementation of a program to train and assist agricultural producers in Mexico to substitute production of selected crops for narcotic crops used in the production of illegal drugs, and

(2) the provision by the United States of agricultural research, extension, and teaching assistance to implement such program.

(c) RESEARCH BY THE SECRETARY OF AGRICULTURE.—

(1) As appropriate based on the consultations provided for under subsection (b), the Secretary of Agriculture, acting through the Agriculture Research Service, shall conduct research to identify crops and other agricultural commodities that have the economic potential to be substituted for narcotic crops presently grown in Mexico.

(2) Research under paragraph (1) shall be conducted in cooperation and coordination with appropriate institutions and agencies in the United States and Mexico and may include studies on crop adaptability, post-harvest physiology, marketing, and social acceptance.

(3) A crop or agricultural commodity will be deemed to not be appropriate for substitution if the Secretary determines that increased production of the crop or commodity in Mexico would measurably decrease consumption of amounts of that crop or commodity produced in the United States.

(d) PILOT PROGRAMS.—As appropriate based on the consultations provided for under subsection (b), the Secretary of Agriculture shall establish pilot programs to determine and demonstrate that crops or commodities identified under subsection (c) have the economic potential to be substituted for narcotic crops presently grown in Mexico. Such pilot programs shall be conducted in cooperation with appropriate institutions and agencies in the United States and Mexico and in coordination with pro-

grams conducted by Mexico to eradicate the production of illegal drugs.

(e) ASSISTANCE AUTHORITY.—The Secretary of Agriculture may enter into contracts, grant agreements, and cooperative agreements under section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318) to carry out this section.

(f) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 133. ANNUAL REPORTS ON DEVELOPMENT EFFORTS TO REDUCE NARCOTICS PRODUCTION AND TRAFFICKING.

Section 634(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394(a)) relating to the annual report on foreign assistance programs is amended—

(1) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively; and

(2) by inserting the following new paragraph (11) after paragraph (10):

“(11) a detailed description of the programs and activities carried out under part I (other than chapter 8) with respect to illicit narcotics production (such as crop substitution programs), and an assessment of the effectiveness of those programs and activities in reducing illicit narcotics production;”.

Subtitle D—Drug Education Programs Abroad

SEC. 141. INCREASED FUNDING FOR USA DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there is authorized to be appropriated for the United States Information Agency for fiscal year 1987 \$2,000,000 which shall be available only for increasing drug education programs abroad. These programs may include—

(1) the distribution of films and publications which demonstrate the impact of drugs on crime and health; and

(2) exchange of persons programs and international visitor programs involving students, educators, and scientists.

SEC. 142. INCREASED FUNDING FOR AID DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to the President for fiscal year 1987 \$3,000,000 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, which amount shall be used pursuant to section 126(b)(2) of that Act for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

SEC. 143. REPORTS TO CONGRESS ON DRUG EDUCATION PROGRAMS ABROAD.

The Director of the United States Information Agency and the Administrator of the Agency for International Development shall include in their annual reports to the Congress a description of the drug education programs carried out by their respective agencies.

Subtitle E—United Nations Activities Relating to Drug Narcotics Control

SEC. 151. FINDINGS.

The Congress finds that—

(1) in response to the growing narcotics threat to the international community—

(A) the Single Convention on Narcotic Drugs, 1953, the 1972 Protocol amending that Convention, and the Convention on Psychotropic Substances were adopted under United Nations auspices, and

(B) the United Nations has created various entities to deal with drug abuse control and prevention; and

(2) a greater international effort is required to address this threat, such as additional or increased contributions by other countries to the United Nations Fund for Drug Abuse and Control and greater coordination of enforcement and eradication efforts.

SEC. 152. INTERNATIONAL CONFERENCE ON DRUG ABUSE AND ILLICIT TRAFFICKING.

(a) CONGRESSIONAL SUPPORT.—The Congress hereby declares its support for United Nations General Assembly Resolution 40/122 adopted on December 13, 1985, in which the General Assembly decided to convene in 1987 an International Conference on Drug Abuse and Illicit Trafficking in order to generate universal action to combat the drug problem in all its forms at the national, regional, and international levels, and to adopt a comprehensive outline of future activities.

(b) UNITED STATES PARTICIPATION.—With respect to United States participation in the International Conference on Drug Abuse and Illicit Trafficking, the Congress calls on the President—

(1) to appoint the head of the United States delegation well in advance of the conference; and

(2) to ensure that necessary resources are available for United States preparation and participation.

(c) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress on the status of United States preparations for the International Conference on Drug Abuse and Illicit Trafficking, including the status of naming the delegation, the issues expected to arise, and United States policy initiatives to be taken at the conference.

SEC. 153. EFFECTIVENESS OF INTERNATIONAL DRUG PREVENTION AND CONTROL SYSTEM.

(a) STUDY.—The United States should seek to improve the program and budget effectiveness of United Nations entities related to narcotics prevention and control by studying the capability of existing United Nations drug-related declarations, conventions, and entities to heighten international awareness and promote the necessary strategies for international action, to strengthen international cooperation, and to make effective use of available United Nations funds.

(b) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress any recommendations that may result from this study, including the possibility of consolidating existing United Nations entities which engage in narcotics-related activities.

SEC. 154. NARCOTICS CONTROL CONVENTIONS.

The Congress—

(1) urges that the United Nations Commission on Narcotic Drugs complete work as quickly as possible, consistent with the objective of obtaining an effective agreement, on a new draft convention against illicit traffic in narcotic drugs and psychotropic substances, in accordance with the mandate given the Commission by United Nations General Assembly Resolution 39/141; and

(2) calls for more effective implementation of existing conventions relating to narcotics.

Subtitle F—Provisions Relating to Specific Countries

SEC. 161. NARCOTICS CONTROL EFFORTS IN MEXICO.

(a) PROSECUTION OF THOSE RESPONSIBLE FOR THE MURDER OF DEA AGENT CAMARENA.—

Of the funds allocated for assistance for Mexico for fiscal year 1987 under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control), \$1,000,000 shall be withheld from expenditure until the President reports to the Congress that the Government of Mexico—

(1) has fully investigated the 1985 murders of Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar, and

(2) has brought to trial and is effectively prosecuting those responsible for those murders.

(b) **REPORTS ON ERADICATION EFFORTS.**—The Secretary of State shall report to the Congress on a monthly basis with respect to the illicit drug eradication program in Mexico.

SEC. 162. MEXICO-UNITED STATES INTERGOVERNMENTAL COMMISSION.

(a) **NEGOTIATIONS TO ESTABLISH.**—In accordance with the resolution adopted by the 26th Mexico-United Interparliamentary Conference which recommended that the Government of Mexico and Government of the United States establish a Mexico-United States Intergovernmental Commission on Narcotics and Psychotropic Drug Abuse and Control, the President should direct the Secretary of State to enter into negotiations with the Government of Mexico to create such a joint intergovernmental commission.

(b) **MEMBERSHIP.**—The commission, which should meet semiannually, should include members of the Mexican Senate and Chamber of Deputies and the United States House of Representatives and Senate, together with members of the executive departments of each government responsible for drug abuse, education, prevention, treatment, and law enforcement.

(c) **REPORT TO CONGRESS.**—Not later than 90 days after the date of enactment of this title, the Secretary of State shall report to the Congress on the progress being made in establishing a commission in accordance with subsection (a).

SEC. 163. OPIUM PRODUCTION IN PAKISTAN.

(a) **FINDINGS.**—The Congress finds that—

(1) the production of opium in Pakistan is expected to triple in the 1985-1986 growing season, posing an increased threat to the health and welfare of the people of Pakistan and the people of the United States; and

(2) the current eradication program in Pakistan, which employs manual eradication of opium poppies, has faltered.

(b) **NEED FOR MORE EFFECTIVE DRUG CONTROL PROGRAM.**—The Congress urges that the Government of Pakistan adopt and implement a comprehensive narcotics control program which would provide for more effective prosecution of drug traffickers, increased interdiction, and aerial eradication of opium poppies.

(c) **REPORT TO CONGRESS.**—The Secretary of State shall report to the Congress not later than 60 days after the date of enactment of this title with respect to the adoption and implementation by the Government of Pakistan of a comprehensive narcotics control program in accordance with subsection (b).

SEC. 164. OPIUM PRODUCTION IN IRAN, AFGHANISTAN, AND LAOS.

The Congress calls on the President to instruct the United States Ambassador to the United Nations to request that the United Nations Secretary General raise with delegations to the International Conference on Drug Abuse and Illicit Trafficking the prob-

lem of illicit drug production in Iran, Afghanistan, and Laos, the largest opium poppy producing countries which do not have narcotics control programs.

TITLE II—COMMITTEE ON ARMED SERVICES

SEC. 201. SHORT TITLE.

This title may be cited as the "Defense Narcotics Act of 1986".

SEC. 202. POLICY.

It is the sense of Congress that the President should—

(1) apply the full measure of the executive power of the President against the introduction of controlled substances into the United States; and

(2) to that end, should take such steps as may be necessary and appropriate (including the deployment of radar, aircraft, and military personnel) to expand the role of the Armed Forces in the war on illegal drugs.

SEC. 203. DRUG ENFORCEMENT EQUIPMENT.

(a) **AMOUNTS AUTHORIZED.**—The Secretary of Defense shall acquire aircraft and equipment as follows for enhancement of authorized drug enforcement assistance activities of the Department:

(1) Blackhawk helicopters in the amount of \$40,000,000.

(2) Four aircraft configured with the AN/APS-138 radar in the amount of \$83,000,000.

(3) Seven radar aerostats in the amount of \$90,000,000.

(b) **SOURCE OF FUNDS.**—Funds for the purpose of subsection (a) shall be derived as the Secretary determines from—

(1) amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1987; and

(2) amounts appropriated or otherwise made available to the Department of Defense for any prior fiscal year and which remain available for obligation.

(c) **LOAN OF EQUIPMENT TO LAW ENFORCEMENT AGENCIES.**—The Secretary of Defense shall make the aircraft and radar aerostats acquired under subsection (a) available to agencies of the United States designated by the Chairman of the National Drug Enforcement Policy Board established by the National Narcotics Act of 1984. Such aircraft and radar aerostats shall be made available subject to the provisions of chapter 18 of title 10, United States Code.

(d) **LIMITATION ON PROCUREMENT.**—Amounts appropriated or otherwise made available to the Department of Defense for procurement for fiscal year 1987 or any prior fiscal year may be obligated for equipment for enhancement of authorized drug enforcement activities of the Department of Defense under subsection (a) or any other provision of law only if the equipment—

(1) is fully supportable within the existing service support system of the Department of Defense; and

(2) reasonably relates to an existing military, war reserve, or mobilization requirement.

SEC. 204. COAST GUARD ACTIVITIES.

(a) **FUNDING FOR PERSONNEL ON NAVAL VESSELS.**—(1) Of the funds appropriated for operation and maintenance for the Navy for fiscal year 1987, the sum of \$15,000,000 shall be transferred to the Secretary of Transportation and shall be available only for members of the Coast Guard assigned to duty as provided in section 379 of title 10, United States Code (as added by subsection (b)).

(2) The active duty military strength level for the Coast Guard for fiscal year 1987 is

hereby increased by 500 above any number otherwise provided by law.

(b) **ENHANCED DRUG INTERDICTION ASSISTANCE.**—(1) Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

"(a) The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board appropriate surface naval vessels at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

"(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

"(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

"(2) as are otherwise within the jurisdiction of the Coast Guard.

"(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Transportation, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty at other units involved in the enforcement of laws listed in section 374(a)(1) of this title.

"(d) In this section, the term 'drug-interdiction area' means an area outside the land area of the United States in which the Secretary of Defense and the Attorney General jointly determine that activities involving smuggling of drugs into the United States are ongoing.

"(e) In this section, a reference to the Secretary of Transportation applies only when the Coast Guard is operating as a service in the Department of Transportation."

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes."

(3) Effective on October 1, 1986, section 1421 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 750), is repealed.

SEC. 205. DRUG INTERDICTION ASSISTANCE TO CIVILIAN LAW ENFORCEMENT OFFICIALS.

Section 374(a) of title 10, United States Code, is amended by striking out the period at the end and inserting in lieu thereof "or with respect to any assistance that such an agency may be authorized to provide to officials of foreign nations who are involved in the enforcement of similar laws."

SEC. 206. MILITARY PERSONNEL.

(a) **STUDY OF APPROPRIATE ROLE OF MILITARY PERSONNEL.**—Not later than March 1, 1987, the President shall submit to Congress a report describing the appropriate role of the active and reserve components of the Armed Forces under the jurisdiction of the Secretary of Defense in interdicting illegal drugs and otherwise participating in the national effort to control and reduce drug abuse.

(b) **COAST GUARD RESERVE.**—The Selected Reserve of the Coast Guard Reserve shall

be programmed to attain a strength as of September 30, 1987, of not less than 14,500. Of such number, not less than 1,500 shall be used to augment units of the Coast Guard assigned to drug interdiction missions.

(c) **HEALTH PROMOTION PROGRAM.**—(1) The Secretary of Defense shall establish a comprehensive anti-drug abuse health promotion program for members of the Armed Forces and civilian personnel of the Department of Defense and their families. Such program shall include education programs concerning controlled substances as a major component of basic training.

(2) The Secretary shall direct that the Department of Defense Dependents Schools System establish a drug abuse education curriculum and programs to be provided throughout elementary and secondary school.

(d) **DRIVING UNDER INFLUENCE OF DRUGS.**—Section 911 of title 10, United States Code, is amended by inserting "or while under the influence of a substance described in section 912a(b) of this title (article 112a(b))" after "manner."

TITLE III—COMMITTEE ON WAYS AND MEANS

SEC. 300. SHORT TITLE.

This title may be cited as the "Drug Smuggling Enforcement Act of 1986".

Subtitle A—Amendments to the Tariff Act of 1930 PART I—GENERAL PROVISIONS

SEC. 301. REFERENCE.

Unless otherwise provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, part, section, subsection, or other provision, the reference shall be considered to be made to a title, part, section, subsection, or other provision of the Tariff Act of 1930 (19 U.S.C. 1401 et seq.).

SEC. 302. PROHIBITION ON IMPORTATION OF DRUG PARAPHERNALIA.

Part 1 of title III (19 U.S.C. 1301 et seq.) is amended by inserting after section 306 the following new section:

"SEC. 306A. DRUG PARAPHERNALIA: IMPORTATION PROHIBITED.

"(a) **PROHIBITION.**—The importation into the United States of any drug paraphernalia is prohibited; except that drug paraphernalia may be imported into the United States for medical or scientific needs under such regulations as the Attorney General may prescribe.

"(b) **DEFINITION.**—As used in subsection (a), the term 'drug paraphernalia' means any of the following articles, whether assembled or disassembled, and parts thereof:

"(1) Bongs, bong bowls, cocaine free base kits, miniature spoons with level capacities of one-tenth cubic centimeter or less, cocaine straws or snorters, cocaine screens or strainers, marijuana isomerization devices, marijuana separation gins, marijuana growing kits, chillums, ice or chiller pipes, air-driven pipes, electric pipes, chamber pipes, carburetor pipes, water pipes, pipes with glass, pyrex, metal, or stone bowls (except meerschau), wired cigarette rolling papers, smoking masks, and smoking screens.

"(2) Any equipment, product, or material of any kind that is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, cutting, testing, analyzing, packaging, repacking, storing, containing, concealing, or injecting, ingesting, inhaling, or otherwise introducing into the human body, marijuana, hashish, hashish oil, or cocaine."

SEC. 303. DEFINITIONS.

Section 401 (19 U.S.C. 1401) is amended—
(1) by inserting "and monetary instruments as defined in section 5312 of title 31, United States Code" before the period in subsection (c); and

(2) by adding at the end thereof the following:

"(m) **CONTROLLED SUBSTANCE.**—The term 'controlled substance' has the meaning given that term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)). For purposes of this Act, any controlled substance is merchandise the importation of which into the United States is prohibited, unless the importation is authorized under—

"(1) an appropriate license or permit; or
"(2) the Controlled Substances Import and Export Act."

SEC. 304. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT.

Section 433 (19 U.S.C. 1433) is amended to read as follows:

"SEC. 433. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT.

"(a) **VESSEL ARRIVAL.**—(1) Immediately upon the arrival at any port or place within the United States or the Virgin Islands of—

"(A) any vessel from a foreign port or place;

"(B) any foreign vessel from a domestic port; or

"(C) any vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made;

the master of the vessel shall report the arrival at the nearest customs facility or such other place as the Secretary may designate.

"(2) The Secretary may by regulation—

"(A) prescribe the manner in which arrivals are to be reported under paragraph (1); and

"(B) extend the time in which reports of arrival must be made, but not later than 24 hours after arrival.

"(b) **VEHICLE ARRIVAL.**—(1) Vehicles may arrive in the United States only at border crossing points designated by the Secretary.

"(2) Except as otherwise authorized by the Secretary, immediately upon the arrival of any vehicle in the United States at a border crossing point, the person in charge of the vehicle shall—

"(A) report the arrival; and

"(B) present the vehicle, and all persons and merchandise (including baggage) on board, for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(c) **AIRCRAFT ARRIVAL.**—The pilot of any aircraft arriving in the United States or the Virgin Islands from any foreign airport or place shall comply with such advance notification, arrival reporting, and landing requirements as the Secretary may by regulation prescribe.

"(d) **PRESENTATION OF DOCUMENTATION.**—The master, person in charge of a vehicle, or aircraft pilot shall, incident to the reporting of arrival under this section, present to customs officers such documents, papers, or manifests as the Secretary may by regulation prescribe.

"(e) **PROHIBITION ON DEPARTURES AND DISCHARGE.**—Unless otherwise authorized by law, after arriving in the United States or the Virgin Islands a vessel or aircraft may not, and after arriving in the United States a vehicle may not—

"(1) depart from the port, place, or airport of arrival; or

"(2) discharge any passenger or merchandise (including baggage); except in accordance with regulations prescribed by the Secretary."

SEC. 305. PENALTIES FOR ARRIVAL, REPORTING, ENTRY, AND DEPARTURE VIOLATIONS.

(a) **FOR VIOLATIONS OF ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.**—Section 436 (19 U.S.C. 1436) is amended to read as follows:

"SEC. 436. PENALTIES FOR VIOLATIONS OF THE ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.

"(a) **UNLAWFUL ACTS.**—It is unlawful—

"(1) to fail to comply with section 433(a), (b), or (c);

"(2) to present any forged, altered, or false document, paper, or manifest to a customs officer under section 433(d) without revealing the facts;

"(3) to violate section 433(e);

"(4) to fail to make entry as required by section 434, 435, or 644 of this Act or section 1109 of the Federal Aviation Act (49 U.S.C. App. 1509); or

"(5) to fail to comply with, or violate, any regulation prescribed under any section referred to in paragraphs (1) through (4).

"(b) **CIVIL PENALTY.**—Any master, person in charge of a vehicle, or aircraft pilot who violates any provision of subsection (a) is liable for a civil penalty of \$5,000 for the first violation, and \$10,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

"(c) **CRIMINAL PENALTY.**—In addition to being liable for a civil penalty under subsection (b), any master, person in charge of a vehicle, or aircraft pilot who intentionally violates any provision of subsection (a) is, upon conviction, liable for a fine in accordance with title 18, United States Code, or imprisonment for 1 year, or both; except that if the vessel, vehicle, or aircraft has on board, or is discovered to have had on board, any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into the United States is prohibited, such individual is liable for a fine in accordance with title 18, United States Code, or imprisonment for not more than 5 years, or both.

"(d) **ADDITIONAL CIVIL PENALTY.**—If any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is imported or brought into the United in or aboard a conveyance which was not properly reported or entered, the master, person in charge of a vehicle, or aircraft pilot shall be liable for a civil penalty equal to the value of the merchandise and the merchandise may be seized and forfeited unless properly entered by the importer or consignee. If the merchandise consists of any controlled substance listed in section 584, the master, individual in charge of a vehicle, or pilot shall be liable to the penalties prescribed in that section."

(b) INCREASE IN PENALTIES FOR DEPARTURE BEFORE REPORT OR ENTRY.—Section 585 (19 U.S.C. 1585) is amended—

(1) by striking out "shall be liable to a penalty of \$5,000," after "vessel"; and

(2) by striking out "\$500" and inserting "\$5,000 for the first violation, and \$10,000 for each subsequent violation."

SEC. 306. INCREASE IN PENALTIES FOR UNAUTHORIZED UNLOADING OF PASSENGERS.

Section 454 (19 U.S.C. 1454), is amended by striking out "\$500 for each" and insert-

ing "\$1,000 for the first passenger and \$500 for each additional".

SEC. 307. REPORTING REQUIREMENTS FOR INDIVIDUALS.

(a) AMENDMENT.—Section 459 (19 U.S.C. 1459) is amended to read as follows:

"SEC. 459. REPORTING REQUIREMENTS FOR INDIVIDUALS.

"(a) INDIVIDUALS ARRIVING OTHER THAN BY CONVEYANCE.—Except as otherwise authorized by the Secretary, individuals arriving in the United States other than by vessel, vehicle, or aircraft shall—

"(1) enter the United States only at a border crossing point designated by the Secretary; and

"(2) immediately—

"(A) report the arrival, and

"(B) present themselves, and all articles accompanying them for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(b) INDIVIDUALS ARRIVING BY REPORTED CONVEYANCE.—Except as otherwise authorized by the Secretary, passengers and crew members aboard a conveyance the arrival in the United States of which was made or reported in accordance with section 433 or 644 of this Act or section 1109 of the Federal Aviation Act of 1958, or in accordance with applicable regulations, shall remain aboard the conveyance until authorized to depart the conveyance by the appropriate customs officer. Upon departing the conveyance, the passengers and crew members shall immediately report to the designated customs facility with all articles accompanying them.

"(c) INDIVIDUALS ARRIVING BY UNREPORTED CONVEYANCE.—Except as otherwise authorized by the Secretary, individuals aboard a conveyance the arrival in the United States of which was not made or reported in accordance with the laws or regulations referred to in subsection (b) shall immediately notify customs and report their arrival, together with appropriate information concerning the conveyance on or in which they arrived, and present their property for customs examination and inspection.

"(d) DEPARTURE FROM DESIGNATED CUSTOMS FACILITIES.—Except as otherwise authorized by the Secretary, any person required to report to a designated customs facility under subsection (a), (b), or (c) may not depart that facility until authorized to do so by the appropriate customs officer.

"(e) UNLAWFUL ACTS.—It is unlawful—

"(1) to fail to comply with subsection (a), (b), or (c);

"(2) to present any forged, altered, or false documents or paper to a customs officer under subsection (a), (b), or (c) without revealing the facts;

"(3) to violate subsection (d); or

"(4) to fail to comply with, or violate, any regulation prescribed to carry out subsection (a), (b), (c), or (d).

"(f) CIVIL PENALTY.—Any individual who violates any provision of subsection (e) is liable for a civil penalty of \$5,000 for the first violation, and \$10,000 for each subsequent violation.

"(g) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (f), any individual who intentionally violates any provision of subsection (e) is, upon conviction, liable for a fine in accordance with title 18, United States Code, or imprisonment for not more than 1 year, or both."

(b) REPEAL.—Section 460 is repealed.

SEC. 308. EXAMINATION OF BOOKS AND WITNESSES.

Section 509 (19 U.S.C. 1509) is amended—

(1) by striking out "required to be kept under section 508 of this Act," in subsection (a)(2) and inserting "as defined in subsection (c)(1)(A)"; and

(2) by amending subsection (c)(1)(A) to read as follows:

"(A) The term 'records' includes statements, declarations, or documents—

"(i) required to be kept under section 508; or

"(ii) regarding which there is probable cause to believe that they pertain to merchandise the importation of which into the United States is prohibited."

SEC. 309. PENALTIES FOR FALSITY OR LACK OF MANIFEST.

Section 584 (19 U.S.C. 1584) is amended—

(1) by amending subsection (a)—

(A) by striking out "(1)" after "GENERAL RULE—";

(B) by striking out "(2) If any of such merchandise so found" and inserting "(b) SPECIAL RULE IF CERTAIN ILLEGAL SUBSTANCES FOUND.—If any of the merchandise described in subsection (a)";

(C) by striking out "(3)" and inserting "(c) SEIZURE AND FORFEITURE.—If any of the merchandise described in subsection (a)";

(D) by striking out "\$500" wherever it appears and inserting "\$1,000"; and

(E) by striking out "\$10", "\$25", and "\$50" wherever they appear and inserting "\$200", "\$500", and "\$1,000", respectively; and

(2) by striking out subsection (b);

SEC. 310. PENALTIES FOR UNLAWFUL UNLOADING AND TRANSHIPMENT.

Section 586 (19 U.S.C. 1586) is amended—

(1) by striking out "\$1,000" wherever it appears and inserting "\$10,000"; and

(2) by amending subsection (e)—

(A) by striking out "one league of the coast of the United States" and inserting "customs waters"; and

(B) by striking out "2 years" and inserting "15 years".

SEC. 311. AVIATION SMUGGLING.

Part V of title IV is amended by adding after section 589 the following new section:

"SEC. 590. AVIATION SMUGGLING.

"(a) IN GENERAL.—It is unlawful for the pilot of any aircraft to transport, or for any individual on board any aircraft to possess, merchandise knowing, or intending, that the merchandise will be introduced into the United States contrary to law.

"(b) AT SEA TRANSFER OF PROHIBITED MERCHANDISE BETWEEN UNITED STATES CONVEYANCES.—It is unlawful for any person to transfer, unless the transfer is authorized by the Secretary, prohibited merchandise on the high seas or in the customs waters between—

"(1) an aircraft that is owned by a citizen of the United States or is registered in the United States; and

"(2) a vessel of the United States as defined in section 3(b) of the Anti-Smuggling Act (19 U.S.C. 1703(b)).

"(c) OTHER AT SEA TRANSFERS OF PROHIBITED MERCHANDISE.—It is unlawful for any person to transfer, unless the transfer is authorized by the Secretary, prohibited merchandise on the high seas or in the customs waters between any aircraft and vessel, regardless of the nationality of either, with intent that such merchandise be introduced into the United States contrary to law.

"(d) CIVIL PENALTIES.—Any person who violates subsection (a), (b), or (c) is liable for a civil penalty equal to twice the value of the prohibited merchandise involved in the violation, but not less than \$10,000.

"(e) CRIMINAL PENALTIES.—In addition to being liable for a civil penalty under subsec-

tion (d), any person who intentionally violates subsection (a), (b), or (c) is, upon conviction—

"(1) liable for a fine in accordance with title 18, United States Code, or imprisonment for not more than 5 years, or both, if none of the prohibited merchandise involved was a controlled substance; or

"(2) liable for a fine in accordance with title 18, United States Code, or imprisonment for not more than 20 years, or both, if any of the prohibited merchandise involved was a controlled substance.

"(f) SEIZURE.—(1) Except as provided in paragraph (2), a vessel or aircraft used in connection with, or in aiding or facilitating, any violation of subsection (a), (b), or (c), whether or not any person is charged in connection with such violation, may be seized and forfeited in accordance with the customs laws.

"(2) Paragraph (1) does not apply to a vessel or aircraft operated as a common carrier.

"(g) DEFINITION.—As used in this section, the term 'prohibited merchandise' means merchandise the importation of which into the United States is prohibited.

"(h) PRESUMPTIONS AND PRIMA FACIE EVIDENCE.—Any of the following acts, if engaged in within 250 miles of the territorial sea of the United States, shall—

"(1) for purposes of imposing civil penalties under subsection (d) for violations of subsection (c), be presumed to constitute circumstances indicating that the intent of the transfer is to make it possible for the merchandise, or any part thereof, to be introduced into the United States contrary to law; and

"(2) for purposes of subsection (f) and section 595a, be prima facie evidence that an aircraft or vessel was used in connection with, or in aiding or facilitating, a violation of subsection (a), (b), or (c) or section 595a, as the case may be;

"(A) The operation of an aircraft or a vessel without lights during such times as lights are required to be displayed under applicable law or regulation.

"(B) The presence on an aircraft of an auxiliary fuel tank which is not installed in accordance with applicable law or regulation.

"(C) Falsely identifying the vessel by name or country of registration, or the aircraft by registration number and country of registration, when requested to do so by a customs officer or other government authority.

"(D) The external display of false registration numbers, false country of registration, or false vessel name.

"(E) The presence on board of unmanifested merchandise, the importation of which is prohibited or restricted.

"(F) The presence on board of controlled substances which are not manifested or which are not accompanied by the permits or licenses required under Single Convention on Narcotic Drugs or other international treaty.

"(G) The presence of any compartment or equipment which is built or fitted out for smuggling.

"(H) The failure of a vessel to stop when hailed by a customs officer or other government authority."

SEC. 312. SEIZURES.

Section 594 (19 U.S.C. 1594) is amended to read as follows:

"SEC. 594. SEIZURE OF CONVEYANCES.

"(a) IN GENERAL.—Whenever—

"(1) any vessel, vehicle, or aircraft; or
 "(2) the owner or operator, or the master, pilot, conductor, driver, or other person in charge of a vessel, vehicle, or aircraft;

is subject to a penalty for violation of the customs laws, the conveyance involved shall be held for the payment of such penalty and may be seized and forfeited and sold in accordance with the customs laws. The proceeds of sale, if any, in excess of the assessed penalty and expenses of seizing, maintaining and selling the property shall be held for the account of any interested party.

"(b) EXCEPTIONS.—No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to seizure and forfeiture under the customs laws for violations relating to merchandise contained—

"(1) on the person;
 "(2) in baggage belonging to and accompanying a passenger being lawfully transported on such conveyance; or
 "(3) in the cargo of the conveyance if the cargo is listed on the manifest and marks, numbers, weights and quantities of the outer packages or containers agree with the manifest;

unless the owner or operator, or the master, pilot, conductor, driver or other person in charge participated in, or had knowledge of, the violation, or was grossly negligent in preventing or discovering the violation.

"(c) PROHIBITED MERCHANDISE ON CONVEYANCE.—If any merchandise the importation of which into the United States is prohibited is found to be, or to have been—

"(1) on board a conveyance used as a common carrier in the transaction of business as a common carrier in one or more packages or containers—

"(A) that are not manifested (or not shown on bills of lading or airway bills); or
 "(B) whose marks, numbers, weight or quantities disagree with the manifest (or with the bills of lading or airway bills); or
 "(2) concealed in or on such a conveyance, but not in the cargo;

the conveyance may be seized, and after investigation, forfeited unless it is established that neither the owner or operator, master, pilot, nor any other employee responsible for maintaining and insuring the accuracy of the cargo manifest knew, or by the exercise of the highest degree of care and diligence could have known, that such merchandise was on board.

"(d) DEFINITIONS.—For purposes of this section—

"(1) The phrase 'owner or operator' includes—

"(A) a lessee or person operating a conveyance under a rental agreement or charter party; and

"(B) the officers and directors of a corporation;

"(C) station managers and similar supervisory ground personnel employed by airlines;

"(D) one or more partners of a partnership;

"(E) representatives of the owner or operator in charge of the passenger or cargo operations at a particular location; and

"(F) and other persons with similar responsibilities.

"(2) The term 'master' and similar terms relating to the person in charge of a conveyance includes the purser or other person on the conveyance who is responsible for maintaining records relating to the cargo transported in the conveyance.

"(e) COSTS AND EXPENSES OF SEIZURE.—When a common carrier has been seized in

accordance with the provisions of subsection (c) and it is subsequently determined that a violation of such subsection occurred but that the vessel will be released, the conveyance is liable for the costs and expenses of the seizure and detention."

SEC. 313. SEARCHES AND SEIZURES.

Section 595(a) (19 U.S.C. 1595(a)) is amended to read as follows:

"(a) WARRANT.—(1) If any officer or person authorized to make searches and seizures has probable cause to believe the presence in any dwelling house, store, or other building or place of—

"(A) any merchandise upon which the duties have not been paid, or which has been otherwise brought into the United States unlawfully;

"(B) any property which is subject to forfeiture under any provision of law enforced or administered by the Customs Service; or

"(C) subject to the limitation in paragraph (2), any document, container, wrapping, or other article which is evidence of a violation of any law enforced or administered by the Customs Service,

he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any Federal magistrate, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise or other article described in the warrant; except that if any house, store, or other building or place in which any merchandise or other article subject to forfeiture is found is upon, or within ten feet of, the boundary line between the United States and a foreign country, such portion thereof as is within the United States may be taken down or removed.

"(2) In the case of violations of section 592, paragraph (1)(C) applies only to violations in which there is probable cause to believe that fraud is involved."

SEC. 314. FORFEITURES.

Section 596 (19 U.S.C. 1596a) is amended—
 (1) by striking out "the proviso to" in subsection (a) and inserting "subsection (b) or (c) of";

(2) by striking out "shall" in subsection (a) and inserting "may"; and

(3) by adding at the end thereof the following new subsection:

"(c) Any merchandise that is introduced or attempted to be introduced into the United States contrary to law (other than in violation of section 592) may be seized and forfeited."

SEC. 315. DISPOSITION OF PROCEEDS OF FORFEITED PROPERTY.

Section 613 (19 U.S.C. 1613) is amended by adding at the end thereof the following new subsections:

"(c) TREATMENT OF DEPOSITS.—If property is seized by the Secretary under law enforced or administered by the Customs Service, or otherwise acquired under section 605 of this Act, and relief from the forfeiture is granted by the Secretary, or his designee, upon terms requiring the deposit or retention of a monetary amount in lieu of the forfeiture, the amount recovered shall be treated in the same manner as the proceeds of sale of a forfeited item.

"(d) EXPENSES.—In any judicial or administrative proceeding to forfeit property under any law enforced or administered by the Customs Service or the Coast Guard, the seizure, storage, and other expenses related to the forfeiture that are incurred by the Customs Service or the Coast Guard

after the seizure, but before the institution of, or during, the proceedings, shall be a priority claim in the same manner as the court costs and the expenses of the Federal marshal."

SEC. 316. COMPENSATION TO INFORMERS.

Section 619 (19 U.S.C. 1619) is amended—
 (1) by striking out "of 25 per centum" each place it appears and inserting in lieu thereof "of not more than 25 percent";

(2) by striking out "which shall be paid out of any appropriations available for the collection of the revenue from customs" in the first sentence;

(3) by striking out the fourth sentence;

(4) by inserting "as an expense of such forfeiture" after "Treasury under the provisions of this section" in the third sentence;

(5) by inserting the following sentence after the second sentence: "Notwithstanding any other provision of law, any amount paid as an award of compensation under this section shall be paid from the net amount recovered before such net amount is deposited in the general fund of the Treasury or the Customs Forfeiture Fund, as appropriate."; and

(6) by adding at the end thereof the following sentence: "Regardless if any duty is recovered, any fine or penalty is paid, or any property is forfeited to the United States, the Secretary may, based upon the value of the information, award not to exceed \$100,000 to any person not an officer or employee of the United States who discovers and reports to an appropriate officer original information concerning any violation, or plan to violate, any customs law or navigation law."

SEC. 317. COMMENCEMENT OF ACTIONS.

Section 621 (19 U.S.C. 1621) is amended by inserting at the end thereof the following sentence: "For purposes of this section, an action to recover a pecuniary penalty is considered to have been commenced when the appropriate customs officer issues a penalty notice."

SEC. 318. FOREIGN LANDING CERTIFICATES.

Section 622 (19 U.S.C. 1622) is amended by inserting before the period at the end thereof the following: ", or to comply with international obligations".

SEC. 319. EXCHANGE OF INFORMATION WITH FOREIGN AGENCIES.

Part V of title IV is amended by adding at the end thereof the following new section 628:

"SEC. 628. EXCHANGE OF INFORMATION.

"The Secretary may by regulation authorize customs officers to exchange information or documents with foreign customs and law enforcement agencies if the Secretary reasonably believes the exchange of information is necessary to—

"(1) insure compliance with any law or regulation enforced or administered by the Customs Service;

"(2) verify the accuracy of information provided to the Department of the Treasury or the Customs Service that is used in making determinations concerning the classification, value, country of origin, quota allocability, admissibility, or other characteristics of imported merchandise that relevant to the laws and regulations enforced or administered by Customs Service;

"(3) administer or enforce multilateral or bilateral agreements to which the United States is a party;

"(4) assist in investigative, judicial and quasi-judicial proceedings in the United States; and

"(5) an action comparable to any of those described in paragraphs (1) through (4) undertaken by a foreign customs or law enforcement agency, or in relation to a proceeding in a foreign country."

SEC. 320. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

Part V of title IV is further amended by adding at the end thereof the following new section:

"SEC. 629. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

"(a) **IN GENERAL.**—When authorized by treaty or executive agreement, the Secretary may station customs officers in foreign countries for the purpose of examining persons and merchandise prior to their arrival in the United States.

"(b) **FUNCTIONS AND DUTIES.**—Customs officers stationed in a foreign country under subsection (a) may exercise such functions and perform such duties (including inspections, searches, seizures and arrests) as may be permitted by the treaty, agreement or law of the country in which they are stationed.

"(c) **COMPLIANCE.**—The Secretary may by regulation require compliance with the customs laws and regulations in a foreign country and, in such a case the customs laws and other civil and criminal laws of the United States relating to the importation of merchandise, filing of false statements, and the unlawful removal of merchandise from customs custody shall apply in the same manner as if the foreign station is a port of entry within the customs territory of the United States.

"(d) **SEIZURES.**—When authorized by treaty, agreement or foreign law, merchandise which is subject to seizure or forfeiture under United States law may be seized in a foreign country and transported under customs custody to the customs territory to the United States to be proceeded against under the customs law.

"(e) **STATIONING OF FOREIGN CUSTOMS OFFICERS IN THE UNITED STATES.**—The Secretary of State, in coordination with the Secretary, may enter into agreements with any foreign country authorizing the stationing in the United States of customs officials of that country (if similar privileges are extended by that country to United States officials) for the purpose of insuring that persons and merchandise going directly to that country from the United States comply with the customs and other laws of that country governing the importation of merchandise. Any foreign customs official stationed in the United States under this subsection may exercise such functions and perform such duties as United States officials may be authorized to perform in that foreign country under reciprocal agreement.

"(f) **APPLICATION OF CERTAIN LAWS.**—When customs officials of a foreign country are stationed in the United States in accordance with subsection (e), and if similar provisions are applied to United States officials stationed in that country—

"(1) sections 111 and 1114 of title 18, United States Code, shall apply as if the officials were designated in those sections;

"(2) any person who in any matter before a foreign customs official stationed in the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, is liable for a

fine in accordance with title 18, United States Code, or imprisonment for not more than 5 years, or both.

SEC. 321. INVESTIGATIONS; OATHS; SUBPOENAS; ETC.

(a) **AMENDMENT.**—Part V of title IV is further amended by adding at the end thereof the following new section:

"SEC. 630. INVESTIGATIONS; OATHS; SUBPOENAS; WITNESSES; EVIDENCE; PRODUCTION OF RECORDS; TERRITORIAL LIMITS; FEES AND MILEAGE OF WITNESSES.

"(a) **IN GENERAL.**—For the purpose of any investigation which, in the opinion of the Secretary, is necessary and proper to—

"(1) the reporting of monetary instruments, transactions, or transportation under chapter 53 of subchapter II of title 31, United States Code; or

"(2) the enforcement of the Bank Secrecy Act (Public Law 91-508);

the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of records (including books, papers, documents, and tangible things which constitute or contain evidence) relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place within the customs territory of the United States, except that a witness shall not be required to appear at any hearing distant more than 100 miles from the place where he was served with subpoena. Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Oaths and affirmations may be made at any place subject to the jurisdiction of the United States.

"(b) **SERVICE OF SUBPOENA; PROOF OF SERVICE.**—A subpoena of the Secretary may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) **CONTEMPT PROCEEDINGS.**—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary of the Treasury may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, carries on business or may be found, to compel compliance with the subpoena of the Secretary. The court may issue an order requiring the subpoenaed person to appear before the Secretary of the Treasury there to produce records, if so ordered, or to give testimony touching the matter under investigation and to pay the costs of the proceeding. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district whereof the subpoenaed person is an inhabitant or where he may be found."

(b) **REPEAL.**—The Act entitled "An Act to authorize subpoenas in connection with the enforcement of the narcotic laws, and for other purposes", approved August 11, 1955 (21 U.S.C. 967-969), is repealed.

SEC. 322. UNDERCOVER INVESTIGATIVE OPERATIONS OF THE CUSTOMS SERVICE.

(a) **CERTIFICATION REQUIRED FOR EXEMPTION OF UNDERCOVER OPERATIONS FROM CERTAIN LAWS.**—With respect to any undercover investigative operation of the United States Customs Service (hereinafter in this section referred to as the "Service") which is necessary for the detection and prosecution of offenses against the United States which are within the jurisdiction of the Secretary of the Treasury—

(1) sums authorized to be appropriated for the Service may be used—

(A) to purchase property, buildings, and other facilities, and to lease space, within the United States, the District of Columbia, and the territories and possessions of the United States without regard to—

(i) sections 1341 and 3324 of title 31, United States Code,

(ii) sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22),

(iii) section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255),

(iv) the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), and

(v) section 304(a) and (c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a) and (c)), and

(B) to establish or to acquire proprietary corporations or business entities as part of the undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31, United States Code;

(2) sums authorized to be appropriated for the Service and the proceeds from the undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

(3) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3302 of title 31, United States Code; only upon the written certification of the Commissioner of Customs (or, if designated by the Commissioner the Deputy or an Assistant Commissioner) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) **LIQUIDATION OF CORPORATIONS AND BUSINESS ENTITIES.**—If a corporation or business entity established or acquired as part of an undercover operation under paragraph (1)(B) of subsection (a) with a net value over \$50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or his designee determines is practicable, shall report the circumstances to the Secretary of the Treasury and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) **DEPOSIT OF PROCEEDS.**—As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (2) and (3) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall

be deposited into the Treasury of the United States as miscellaneous receipts.

(d) **AUDITS.**—(1) The Customs Service shall conduct a detailed financial audit of each undercover investigative operation which is closed in each fiscal year, and

(A) submit the results of the audit in writing to the Secretary of the Treasury; and

(B) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(2) The Customs Service shall also submit a report annually to the Congress specifying as to its undercover investigative operations—

(A) the number, by programs, of undercover investigative operations pending as of the end of the 1-year period for which such report is submitted;

(B) the number, by programs, of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted; and

(C) the number, by programs, of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.

(e) **DEFINITIONS.**—For purposes of subsection (d)—

(1) The term "closed" refers to the earliest point in time at which—

(A) all criminal proceedings (other than appeals) are concluded, or

(B) covert activities are concluded, whichever occurs later.

(2) The term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Customs Service.

(3) The terms "undercover investigative operation" and "undercover operation" mean any undercover investigative operation of the Customs Service—

(A) in which—

(i) the gross receipts (excluding interest earned) exceed \$50,000, or

(ii) expenditures (other than expenditures for salaries of employees) exceed \$150,000; and

(B) which is exempt from section 3302 or 9102 of title 31, United States Code;

except that subparagraphs (A) and (B) shall not apply with respect to the report required under paragraph (2) of subsection (d).

SEC. 323. EFFECTIVE DATE.

The amendments made by this part shall take effect on the 15th day after the date of the enactment of this Act. Any amendment made by this part that imposes or increases a civil or criminal penalty applies only with respect to violations committed on or after such 15th day.

PART II—CUSTOMS FORFEITURE FUND

SEC. 331. CUSTOMS FORFEITURE FUND.

(a) **AMENDMENT.**—Section 613a (19 U.S.C. 1613b) is amended—

(1) by amending subsection (a)—

(A) by striking out "1987" in the first sentence and inserting "1991";

(B) by inserting "(including investigative costs leading to seizures)" after "seizure" in paragraph (1);

(C) by inserting "and" after the semicolon at the end of paragraph (4);

(D) by striking out paragraph (5);

(E) by redesignating paragraph (6) as paragraph (5); and

(F) by amending the last sentence to read as follows:

"In addition to the purposes described in paragraphs (1) through (5), the fund is available for—

"(i) purchases by the Customs Service of evidence of—

"(I) smuggling of controlled substances, and

"(II) violations of the currency and foreign transaction reporting requirements of chapter 51 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances;

"(ii) the equipping for law enforcement functions of any vessel, vehicle, or aircraft available for official use by the Customs Service;

"(iii) the reimbursement, at the discretion of the Secretary, of private citizens for expenses incurred by them in cooperating with the Customs Service in investigations and undercover law enforcement operations; and

"(iv) the publicizing of the availability of rewards under section 619.";

(2) by amending subsection (f) to read as follows:

"(f)(1) There are authorized to be appropriated from the fund for each of the fiscal years beginning with fiscal year 1987 not more than \$20,000,000.

"(2) At the end of each of fiscal years 1987, 1988, 1989, and 1990, any amount in the fund in excess of \$20,000,000 shall be deposited in the general fund of the Treasury. At the end of fiscal year 1991, any amount remaining in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist."

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect October 1, 1986.

Subtitle B—Customs Service Authorizations, Miscellaneous Customs Provisions, and Amendments to the Controlled Substances Import and Export Act

PART I—CUSTOMS SERVICE AUTHORIZATIONS

SEC. 341. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1987 FOR THE UNITED STATES CUSTOMS SERVICE.

Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended as follows:

"(b)(1) There are authorized to be appropriated to the Department of the Treasury not to exceed \$1,062,631,000 for the salaries and expenses of the United States Customs Service for fiscal year 1987; of which—

"(A) \$749,131,000 is for salaries and expenses to maintain current operating levels, and includes such sums as may be necessary to complete the testing of the prototype of the automatic license plate reader program and to implement that program;

"(B) \$99,300,000 is for the salaries and expenses of additional personnel to be used in carrying out drug enforcement activities; and

"(C) \$214,200,000 is for the operation and maintenance of the air interdiction program of the Service, of which—

"(i) \$137,000,000 is for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, and

"(ii) \$350,000 is for a feasibility and application study for a low-level radar detection system in collaboration with the Los Alamos National Laboratory.

"(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1986—

"(A) not less than 2,500 merchandise entries (including informal entries) were made; and

"(B) not less than \$1,500,000 in customs revenues were assessed."

PART II—MISCELLANEOUS CUSTOMS AMENDMENTS

SEC. 351. TREATMENT OF HOVERING VESSELS.

Section 201 of the Act of August 5, 1935 (19 U.S.C. 1432a) is amended by inserting after "hovering vessel" the following: "or has received merchandise while in the customs waters beyond the territorial sea or while on the high seas."

SEC. 352. ASSISTANCE FOR CUSTOMS OFFICERS.

Section 3071 of the Revised Statutes of the United States (19 U.S.C. 507) is amended to read as follows:

"Sec. 3071. (a) Any customs officer (as defined in section 401 of the Tariff Act of 1930) who needs assistance in making any arrest, search, or seizure that is authorized under any law that is enforced or administered by customs officers may, after identifying himself or herself as a customs officer, demand the assistance of any person. Any person who, without reasonable excuse, neglects or refuses to assist a customs officer after proper demand under this subsection is guilty of a misdemeanor and subject to a fine of not more than \$1,000.

"(b) Any person, not an officer or employee of the United States, who renders assistance in good faith upon the request of a customs officer shall not be held liable for any civil damages as a result of the rendering of such assistance where the assisting person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances."

SEC. 353. RECREATIONAL VESSEL LICENSES.

Section 12109(b) of title 46, United States Code, is amended by adding at the end the following: "Such vessel must, however, comply with all customs requirements for reporting arrival under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) and all persons aboard such a pleasure vessel shall be subject to all applicable customs regulations."

PART III—AMENDMENTS TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT

SEC. 361. POSSESSION, MANUFACTURE, OR DISTRIBUTION FOR PURPOSES OF UNLAWFUL IMPORTATION.

Section 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 959) is amended to read as follows:

"SEC. 1009. POSSESSION, MANUFACTURE, OR DISTRIBUTION FOR PURPOSES OF UNLAWFUL IMPORTATION.

"(a) It shall be unlawful for any person to manufacture or distribute a controlled substance in schedule I or III—

"(1) intending that such substance be unlawfully imported in the United States or into waters within a distance of twelve miles of its coast; or

"(2) knowing that such substance will be unlawfully imported into the United States or into waters within a distance of 12 miles of its coast.

"(b) It shall be unlawful for any United States citizen on board any aircraft, or any person on board an aircraft owned by a United States citizen or registered in the United States, to manufacture or distribute or possess with intent to manufacture or distribute a controlled substance.

"(c) This section is intended to reach acts of manufacture or distribution committed

outside the territorial jurisdiction of the United States. Any person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia."

Subtitle C—Denial of Trade Benefits to Uncooperative Drug Source Nations

SEC. 371. SHORT TITLE.

This subtitle may be cited as the "Narcotics Control Trade Act".

SEC. 372. DETERMINATIONS REGARDING UNCOOPERATIVE DRUG SOURCE NATIONS.

(a) **ANNUAL DETERMINATION.**—The President, after taking into account the factors set forth in subsection (b), shall determine if any foreign country, during any fiscal year commencing after September 30, 1986—

(1) was a direct or indirect source of one or more illicit narcotic and psychotropic drugs and other controlled substances that is significantly affecting the United States; and

(2) did not cooperate with the United States Government in preventing narcotic and psychotropic drugs and other controlled substances from significantly affecting the United States.

(b) **FACTORS.**—For purposes of making a determination under subsection (a) regarding a foreign country, the President shall take into account the capabilities, effort, and progress of that country in—

(1) limiting legal narcotic crop production to levels required for legal purposes;

(2) licensing legal narcotic crop production and effectively controlling it to prevent significant diversion to the illicit traffic;

(3) limiting the legal manufacture of narcotic and psychotropic drugs and other controlled substances to levels required for medical purposes and effectively controlled manufacture to prevent significant diversion to the illicit traffic;

(4) detecting and eradicating the illicit cultivation of narcotic crops; and

(5) suppressing the illicit manufacture, processing, and traffic of narcotic and psychotropic drugs, under the control of the Single Convention of Narcotic Drugs of 1953 as amended by the 1972 Amending Protocol or the Controlled Substances Act of 1970 or the Convention on Psychotropic Substances of 1971.

(c) **REPORT OF DETERMINATIONS.**—The President shall submit to each House of the Congress the name of each foreign country regarding which an affirmative determination is made under subsection (a). The submission must be made on the first day on which both Houses are in session after the close of the fiscal year with respect to which the determination is made.

SEC. 373. TARIFF TREATMENT OF PRODUCTS OF UNCOOPERATIVE DRUG SOURCE NATIONS.

(a) **REQUIRED ACTION BY PRESIDENT.**—The President shall, with respect to each foreign country regarding which an affirmative determination is made under section 372(a) and to the extent considered necessary by the President to achieve the purposes of this subtitle—

(1) deny to any or all of the products of that country tariff treatment under the Generalized System of Preferences, the Caribbean Basin Economic Recovery Act, or any other law providing preferential tariff treatment;

(2) apply to any or all of the dutiable products of that country an additional duty

at a rate not to exceed 50 percent ad valorem or the specific rate equivalent;

(3) apply to one or more duty-free products of that country a duty at a rate not to exceed 50 percent ad valorem; or

(4) take any combination of the actions described in paragraphs (1), (2), and (3).

(b) **DURATION OF ACTION.**—The action taken by the President under subsection (a) shall apply to the products of a foreign country that are entered, or withdrawn from warehouse for consumption, during the period that—

(1) begins on October 1 of the fiscal year occurring after the fiscal year with respect to which an affirmative determination regarding that country was made under section 372(a); and

(2) ends on the day on which the determination is cancelled under section 307.

SEC. 374. PROGRESS REPORTS.

The President shall include as a part of the annual report required under section 481(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(1)) an evaluation of progress that each major drug source nation has made during the reporting period in achieving the objectives set forth in section 372(b).

SEC. 375. CANCELLATION OF DETERMINATIONS.

If the President considers that a foreign country regarding which an affirmative determination was made under section 372(a) has made significant progress, and will continue to make progress, in remedying those acts, programs, or policies on which that determination was based, the President may cancel the determination. The President must immediately notify each House of Congress of each cancellation made under this section.

SEC. 376. DEFINITION.

For purposes of this subtitle, the term "narcotic and psychotropic drugs and other controlled substances" has the same meaning as is given that term in section 481(i)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(3)).

SEC. 377. CONFORMING AMENDMENTS.

(a) **GENERALIZED SYSTEM OF PREFERENCES.**—Section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended—

(1) by striking out paragraph (5);

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7); and

(3) by striking out "(5)," in the last sentence.

(b) **CARIBBEAN BASIN ECONOMIC RECOVERY.**—Section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended—

(1) by inserting "and" after the semicolon at the end of paragraph (5);

(2) by striking out paragraph (6); and

(3) by redesignating paragraph (7) as paragraph (6).

TITLE IV—COMMITTEE ON MERCHANT MARINE AND FISHERIES

SEC. 401. SHORT TITLE.

This title may be cited as the "Coast Guard Drug Interdiction and Law Enforcement Act of 1986".

SEC. 402. FINDINGS AND POLICY.

(a) **FINDINGS.**—Congress finds that—

(1) the Coast Guard is responsible for carrying out a variety of important missions in behalf of the security, safety, and economic and environmental well-being of the United States;

(2) among the high priority missions of the Coast Guard are search and rescue, maritime law enforcement, military readiness, and marine safety;

(3) there currently exists an imbalance between the responsibilities of the Coast Guard and the personnel and material resources available to the Coast Guard; and

(4) the Coast Guard will therefore require a significant increase in resources if it is to carry out its missions at a level the public expects and the national interest demands.

(b) **POLICY.**—It is the sense of Congress that—

(1) the Coast Guard should be accorded the resources necessary to significantly increase its ability to interdict the illegal transportation of drugs into the United States without causing a reduction in the ability of the Coast Guard to carry out its other missions; and

(2) if given adequate resources, the Coast Guard is the agency of the Federal Government that is best qualified to carry out drug interdiction and law enforcement operations upon the high seas and waters over which the United States has jurisdiction, and to carry out maritime air surveillance or interdiction operations over the high seas that are required to support drug law enforcement activities in the United States.

SEC. 403. MARITIME AIR SURVEILLANCE AND INTERDICTION.

Title 14, United States Code, is amended as follows:

(1) Section 2 is amended by striking out "United States;" the first place it appears and inserting in lieu thereof "United States; shall engage in maritime air surveillance or interdiction to enforce or assist in the enforcement of the laws of the United States;"

(2) Section 89 is amended to read as follows:

"§ 89. Law enforcement

"(a)(1) To prevent, detect, and suppress violations of laws of the United States, the Secretary may—

"(A) in the case of a vessel subject to the jurisdiction, or to the operation of law, of the United States, make inquiries, examinations, inspections, searches, seizures, and arrests on the high seas and waters subject to the jurisdiction of the United States;

"(B) in the case of an aircraft subject to the jurisdiction, or to the operation of law, of the United States, make inquiries, examinations, inspections, searches, and seizures of the aircraft or order the aircraft to a landing area; or

"(C) take any other lawful action.

"(2) For the purposes of this section, a commissioned, warrant, or petty officer of the Coast Guard may—

"(A) order a vessel to stop or an aircraft to a landing area;

"(B) at any time go on board a vessel or aircraft subject to the jurisdiction, or to the operation of law, of the United States;

"(C) address inquiries to those on board;

"(D) examine the vessel's or aircraft's documents and records;

"(E) examine, inspect, and search the vessel or aircraft;

"(F) use all necessary force to compel compliance; and

"(G) take any other lawful action.

"(b)(1) When the inquiries, examinations, inspections, or searches indicate that a violation of the laws of the United States making an individual subject to arrest is being, or has been, committed by an individual, the commissioned, warrant, or petty officer shall—

"(A) arrest the individual;

"(B) if escaping to shore or from a landing area, pursue and arrest the individual; and

"(C) take any other lawful action.

"(2) The vessel or aircraft or any part of the goods on the vessel or aircraft, or both, shall be seized when—

"(A) probable cause exists that a violation of the laws of the United States has been committed rendering the vessel, aircraft, or goods on the vessel or aircraft liable to forfeiture; or

"(B) if necessary, seizure is required to secure a civil penalty.

"(c) When a commissioned, warrant, or petty officer of the Coast Guard is engaged under the authority contained in this section, the officer is—

"(1) deemed to be acting as an agent of the particular department, agency, or instrumentality of the United States Government charged with the administration of the particular law; and

"(2) subject to the rules and regulations prescribed by that department, agency, or instrumentality with respect to the enforcement of that law.

"(d) This section is in addition to any powers conferred by law on those commissioned, warrant, or petty officers and does not limit any powers conferred by law on those commissioned, warrant, or petty officers, or any other officers of the United States."

(3) Chapter 17 is amended as follows:

(A) Item 637 of the analysis of the chapter is amended to read as follows:

"637. Stopping vessels or aircraft; immunity of Coast Guard officers."

(B) The caption of section 637 is amended to read as follows:

"§ 637. Stopping vessels or aircraft; immunity of Coast Guard officers"; and

(C) Section 637(a) is amended—

(i) by striking out "Whenever any vessel liable to seizure or examination does not bring-to," and inserting in lieu thereof "When a vessel or aircraft is subject to the law enforcement actions authorized by section 89 of this title and does not stop or land," and

(ii) by striking out "fire at or into such vessel which does not bring-to," and inserting in lieu thereof "fire at or into the vessel or aircraft that does not stop or land."

SEC. 104. AUTHORIZATION OF FUNDS.

(a) Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1987 and 1988 as follows:

(1) For the operation and maintenance of additional personnel and equipment, \$59,000,000 for fiscal year 1987 and \$59,000,000 for fiscal year 1988, to remain available until expended.

(2) For the acquisition of additional equipment and related capital improvements, \$59,000,000 for fiscal year 1987 and \$84,000,000 for fiscal year 1988, to remain available until expended.

(b) In order to carry out the amendments made by this title, the Coast Guard may—

(1) recruit and train 1,500 additional active duty military personnel,

(2) procure secure communications equipment, as needed, for cutters, shore stations, and aircraft,

(3) operate and maintain four surveillance aircraft, if made available by the Navy,

(4) procure, operate, upgrade, and maintain sea-based aerostat balloons,

(5) equip 8 HU-25A Falcon jet aircraft with air-to-air radar, appropriate night vision devices, or other spare parts, and

(6) take any other lawful action deemed necessary by the Secretary of Transporta-

tion or the Commandant, including the coordination of drug law enforcement activities with State, local, or other government authorities as provided under section 141 of title 14, United States Code.

SEC. 105. AUTHORIZATION ENHANCEMENT.

Nothing in this title shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that additional appropriations are made available in appropriation Acts for that purpose.

TITLE V—COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Subtitle A—Money Laundering

SEC. 501. SHORT TITLE.

This subtitle may be cited as the "Comprehensive Money Laundering Prevention Act".

SEC. 502. STRUCTURING TRANSACTIONS TO EVADE REPORTING REQUIREMENTS PROHIBITED.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions) is amended by adding at the end thereof the following new section:

"§ 5324. Structuring transactions to evade reporting requirement prohibited

"No person shall for the purpose of evading the reporting requirements of section 5313(a) with respect to such transaction—

"(1) cause or attempt to cause a domestic financial institution to fail to file a report required under section 5313(a);

"(2) cause or attempt to cause a domestic financial institution to file a report required under section 5313(a) that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more domestic financial institutions."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"5324. Structuring transactions to evade reporting requirement prohibited."

SEC. 503. SEIZURE AND CIVIL FORFEITURE OF MONETARY INSTRUMENTS.

(a) FAILURE TO REPORT EXPORT OR IMPORT OF MONETARY INSTRUMENT.—The first sentence of section 5317(c) of title 31, United States Code (relating to seizure and forfeiture of monetary instruments in foreign commerce) is amended to read as follows:

"If a report required under section 5316 with respect to any monetary instrument is not filed (or if filed, contains a material omission or misstatement of fact), the instrument and any interest in property, including a deposit in a financial institution, traceable to such instrument may be seized and forfeited to the United States Government."

(b) SEIZURE AND CIVIL FORFEITURE OF MONETARY INSTRUMENTS INVOLVED IN STRUCTURED TRANSACTION VIOLATION.—Section 5317 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) SEIZURE AND CIVIL FORFEITURE OF MONETARY INSTRUMENTS INVOLVED IN STRUCTURED TRANSACTION VIOLATION.—

"(1) IN GENERAL.—Any—

"(A) United States coins or currency (or such other monetary instrument as the Secretary of the Treasury may prescribe by regulation) involved in any knowing violation of section 5313(a) or 5324; and

"(B) interest in property, including a deposit in a financial institution, traceable to such coins or currency (or other monetary instrument),

may be seized and forfeited to the United States Government in the manner provided in subchapter C of chapter 75 of the Internal Revenue Code of 1954.

"(2) EXCEPTION.—Paragraph (1) shall not apply if the owner of the property or the interest in property otherwise subject to seizure and forfeiture under paragraph (1) is—

"(A) a bona fide purchaser for value who took without notice of the violation;

"(B) a depository institution (as such term is defined in section 19(b)(1)(A) of the Federal Reserve Act); or

"(C) a financial institution regulated by the Securities and Exchange Commission.

"(3) HOLDS ON PROPERTY HELD BY FINANCIAL INSTITUTIONS.—Any—

"(A) United States coins or currency (and such other monetary instruments as the Secretary of the Treasury may prescribe by regulation); and

"(B) other interest in property, including any deposit,

which is in the possession or custody of any financial institution shall be held by such financial institution for a period of 10 days upon receipt of notice (in such form and in such manner as the Secretary shall prescribe) from the Secretary of the Treasury's intent to seize such coin or currency, instrument, or other property under this subsection.

"(4) SEIZURE OF PROPERTY HELD BY FINANCIAL INSTITUTIONS.—Upon a showing by the Secretary of the Treasury that there is probable cause to believe that any coin or currency, monetary instrument, or other interest in property, including any deposit, which is in the possession or custody of any financial institution is subject to forfeiture under paragraph (1), the district court of the United States for the district in which such property is held may issue an order authorizing the Secretary to seize such property.

"(5) EXEMPTION FROM LIABILITY FOR IMPOSITION OF HOLD.—The United States, any agency, department, or employee of the United States, any financial institution, and any officer, director, or employee of a financial institution shall be exempt from any liability to any other person which may otherwise arise for interest, damages, or any other type of compensation or relief, including injunctive and declaratory relief, in connection with or as a result of a hold being placed upon any property under paragraph (3).

"(6) LIABILITY OF FINANCIAL INSTITUTION TO THE UNITED STATES FOR FAILURE TO COMPLY.—Any financial institution which—

"(A) receives a notice under paragraph (3) with respect to any property or interest in property; and

"(B) after receipt of such notice, fails or refuses to hold, without reasonable cause, such property or interests until the earlier of—

"(i) the expiration of the 10-day period described in paragraph (3); or

"(ii) the presentation by the Secretary of a court order issued under paragraph (4),

shall be liable to the United States for an amount which is equal to the value of the property or interests which such institution failed or refused to hold."

(c) TECHNICAL AND CONFORMING AMENDMENTS TO INTERNAL REVENUE CODE OF 1954.—

(1) Section 7302 of the Internal Revenue Code of 1954 (relating to property used in violation of internal revenue laws) is amended by adding at the end thereof the following new sentence: "The second and fourth sentences are hereby extended to coins, currency, and other monetary instruments (and to interests in property traceable to such instruments) seized pursuant to section 5317 of title 31, United States Code."

(2) The heading for such section 7302 is amended by inserting "OR TITLE 31, UNITED STATES CODE" after "REVENUE LAWS".

(3) Section 7321 of the Internal Revenue Code of 1954 (relating to authority to seize property subject to forfeiture) is amended by inserting "and any coins, currency, or other monetary instrument (and any interest in property traceable to such instrument) subject to forfeiture under section 5317 of title 31, United States Code," after "this title".

(4) Section 7327 of the Internal Revenue Code of 1954 (relating to applicability of customs laws) is amended by inserting "and to forfeitures of coins, currency, and other monetary instruments (or interests in property traceable to such instruments) incurred or alleged to have been incurred under section 5317 of title 31, United States Code (except that, in the case of forfeitures under such section 5317, the customs laws shall apply only to the extent such laws are not inconsistent with any applicable provision of such section)" before the period.

(5) Section 7608(b)(1) of the Internal Revenue Code of 1954 (relating to authority of internal revenue enforcement officers to enforce certain internal revenue laws) is amended—

(A) by striking out "internal revenue laws or" and inserting in lieu thereof "internal revenue laws,"; and

(B) by inserting "; or any provision of section 5317 of title 31, United States Code, relating to seizures and forfeitures of coins, currency, and other monetary instruments (and interests in property traceable to such instruments)" after "responsible".

(6) Section 7608(b)(2) of the Internal Revenue Code of 1954 (relating to functions authorized to be performed by internal revenue enforcement officers) is amended—

(A) by adding at the end thereof the following new subparagraph:

"(D) to make seizures of coins, currency, and other monetary instruments (and interests in property traceable to such instruments) subject to forfeiture under section 5317 of title 31, United States Code,";

(B) by striking out "and" at the end of subparagraph (B); and

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and".

(7) The item relating to section 7302 in the table of sections for part I of subchapter C of chapter 75 of the Internal Revenue Code of 1954 is amended by inserting "or title 31, United States Code" after "revenue laws".

SEC. 504. CIVIL MONEY PENALTY FOR STRUCTURED TRANSACTION VIOLATION.

(a) IN GENERAL.—Section 5321(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) STRUCTURED TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who knowingly or with reckless disregard for the provisions of

section 5324 violates any provision of section 5324.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed the amount of the coins and currency (or such other monetary instruments as the Secretary may prescribe) involved in the transaction with respect to which such penalty is imposed.

"(C) COORDINATION WITH FORFEITURE PROVISION.—The amount of any civil money penalty imposed by the Secretary under subparagraph (A) shall be reduced by the amount of any forfeiture to the United States under section 5317(d) in connection with the transaction with respect to which such penalty is imposed."

(b) CONFORMING AMENDMENT.—Section 5321(c) of title 31, United States Code, is amended by striking out "section 5317(b)" and inserting in lieu thereof "subsection (c) or (d) of section 5317".

SEC. 505. BANKING REGULATORY AGENCY SUPERVISION OF RECORDKEEPING SYSTEMS.

(a) INSURED BANKS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—Each appropriate Federal banking agency shall prescribe regulations requiring insured banks to establish and maintain procedures reasonably designed to assure and monitor the compliance of such banks with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF BANK TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured bank by the appropriate Federal banking agency shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the insured bank.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the appropriate Federal banking agency determines that an insured bank—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such bank which was previously reported to the bank by such agency,

the agency shall issue an order in the manner prescribed in subsection (b) or (c) requiring such bank to cease and desist from its violation of this subsection or regulations prescribed under this subsection."

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 8(i)(2)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i)) is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (s)".

(b) INSTITUTIONS REGULATED BY THE BANK BOARD.—

(1) IN GENERAL.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended by adding at the end thereof the following new paragraph:

"(16) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(A) COMPLIANCE PROCEDURES REQUIRED.—The Board shall prescribe regulations requiring associations to establish and maintain procedures reasonably designed to assure and monitor the compliance of such associations with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(B) EXAMINATIONS OF ASSOCIATIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(i) IN GENERAL.—Each examination of an association by the Board shall include a review of the procedures required to be established and maintained under subparagraph (A).

"(ii) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the association.

"(C) ORDER TO COMPLY WITH REQUIREMENTS.—If the Board determines that an association—

"(i) has failed to establish and maintain the procedures described in subparagraph (A); or

"(ii) has failed to correct any problem with the procedures maintained by such association which was previously reported to the association by the Board,

the Board shall issue an order in the manner prescribed in paragraph (2) or (3) requiring such association to cease and desist from its violation of this paragraph or regulations prescribed under this paragraph."

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 5(d)(8)(B)(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(i)) is amended by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (16)".

(c) INSURED THRIFT INSTITUTIONS.—

(1) IN GENERAL.—Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following new subsection:

"(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—The Corporation shall prescribe regulations requiring insured institutions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such institutions with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF INSTITUTIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured institution by the Corporation shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the insured institution.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the Corporation determines that an insured institution—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such institution which was previously reported to the institution by the Corporation,

the Corporation shall issue an order in the manner prescribed in subsection (e) or (f) requiring such institution to cease and desist from its violation of this subsection or

regulations prescribed under this subsection."

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 407(k)(3)(A) of the National Housing Act (12 U.S.C. 1730(k)(3)(A)) is amended by striking out "subsection (e) or (f) of this section shall forfeit" and inserting in lieu thereof "subsection (e), (f), or (s) of this section shall forfeit".

(d) INSURED CREDIT UNIONS.—

(1) IN GENERAL.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end thereof the following new subsection:

"(q) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—The Board shall prescribe regulations requiring insured credit unions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such credit unions with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF CREDIT UNIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured credit union by the Board shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the credit union.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the Board determines that an insured credit union—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such credit union which was previously reported to the credit union by the Board,

the Board shall issue an order in the manner prescribed in subsection (e) or (f) requiring such credit union to cease and desist from its violation of this subsection or regulations prescribed under this subsection."

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 206(k)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1786(k)(2)(A)) (as in effect on July 1, 1986) is amended by striking out "subsection (e) or (f)" and inserting in lieu thereof "subsection (e), (f), or (q)".

SEC. 506. FINANCIAL INSTITUTIONS AND MONETARY INSTRUMENTS.

(a) DEFINITION OF FINANCIAL INSTITUTIONS INCLUDES FOREIGN SUBSIDIARIES OF U.S. INSTITUTIONS.—Section 5312(a)(2) of title 31, United States Code (defining financial institutions) is amended—

(1) by redesignating subparagraphs (T) and (U) as subparagraphs (U) and (V), respectively; and

(2) by inserting after subparagraph (S) the following new subparagraph:

"(T) any foreign subsidiary or affiliate, as defined by the Secretary of the Treasury, of any entity described in this paragraph;"

(b) DEFINITION OF MONETARY INSTRUMENTS INCLUDES SUCH OTHER TRANSFERS AS THE SECRETARY MAY PRESCRIBE.—Section 5312(a)(3) of title 31, United States Code (defining monetary instruments) is amended—

(1) by adding at the end thereof the following new subparagraph:

"(C) as the Secretary may prescribe by regulation, any transfer of funds;"

(2) by striking out "and" at the end of subparagraph (A); and

(3) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and".

(c) UNITED STATES AGENCIES INCLUDES THE POSTAL SERVICE.—Section 5312(a)(2)(U) of title 31, United States Code (defining financial institutions) (as redesignated by subsection (a)) is amended by inserting before the semicolon at the end the following: ", including the United States Postal Service".

SEC. 507. ADDITIONAL REVIEW TIME UNDER THE CHANGE IN BANK CONTROL ACT AND CHANGE IN SAVINGS AND LOAN CONTROL ACT.

(a) CHANGE IN BANK CONTROL AMENDMENTS.—

(1) INITIAL EXTENSION AT DISCRETION OF AGENCY.—The first sentence of section 7(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(1)) is amended by striking out "or extending up to another thirty days" and inserting in lieu thereof "or, in the discretion of the agency, extending for an additional 30 days".

(2) ADDITIONAL EXTENSIONS IN CASE OF INCOMPLETE OR INACCURATE NOTICE OR TO CONTINUE INVESTIGATION.—The second sentence of section 7(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(1)) is amended to read as follows: "The period for disapproval under the preceding sentence may be extended not to exceed 2 additional times for not more than 45 days each time if—

"(A) the agency determines that any acquiring party has not furnished all the information required under paragraph (6);

"(B) in the agency's judgment, any material information submitted is substantially inaccurate;

"(C) the agency has been unable to complete the investigation of an acquiring party under paragraph (2)(B) because of any delay caused by, or the inadequate cooperation of, such acquiring party; or

"(D) the agency determines that additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the requirements of subchapter II of chapter 53 of title 31, United States Code."

(b) CHANGE IN SAVINGS AND LOAN CONTROL AMENDMENTS.—

(1) INITIAL EXTENSION AT DISCRETION OF AGENCY.—The first sentence of section 407(q)(1) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended by striking out "or extending up to another thirty days" and inserting in lieu thereof "or, in the discretion of the Corporation, extending for an additional 30 days".

(2) ADDITIONAL EXTENSIONS IN CASE OF INCOMPLETE OR INACCURATE NOTICE OR TO CONTINUE INVESTIGATION.—The second sentence of section 407(q)(1) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended to read as follows: "The period for disapproval under the preceding sentence may be extended not to exceed 2 additional times for not more than 45 days each time if—

"(A) the Corporation determines that any acquiring party has not furnished all the information required under paragraph (6);

"(B) in the Corporation's judgment, any material information submitted is substantially inaccurate;

"(C) the Corporation has been unable to complete the investigation of an acquiring party under paragraph (2)(B) because of any delay caused by, or the inadequate cooperation of, such acquiring party; or

"(D) the Corporation determines that additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the requirements of subchapter II of chapter 53 of title 31, United States Code."

SEC. 508. MONETARY TRANSACTION RECORDKEEPING AND REPORTING AMENDMENTS.

(a) SECRETARY AUTHORIZED TO REQUIRE RECORDKEEPING FOR DOMESTIC COIN AND CURRENCY TRANSACTIONS.—Subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions) (as amended by section 502(a)) is amended by adding at the end thereof the following new section:

"§ 5325. Records of certain domestic coin and currency transactions

"(a) RECORDS AUTHORIZED TO BE REQUIRED UNDER PARTICULAR CIRCUMSTANCES.—Under such circumstances as the Secretary of the Treasury may prescribe by regulation, the Secretary may issue an order requiring any domestic financial institution—

"(1) to obtain such information as the Secretary may describe in such order concerning—

"(A) any transaction in which such financial institution is involved for the payment, receipt, or transfer of United States coins or currency (or such other monetary instruments as the Secretary may describe in such order) in amounts or denominations of \$3,000 or more; and

"(B) any other person participating in such transaction;

"(2) to maintain a record of such information for such period of time as the Secretary may require; and

"(3) to file a report with respect to any transaction described in paragraph (1)(A) in the manner and to the extent specified in the order.

"(b) RECORDS REQUIRED FOR CERTAIN CASH TRANSACTIONS INVOLVING MORE THAN \$3,000.—

"(1) IN GENERAL.—Whenever a domestic financial institution issues or sells a bank check, cashier's check, traveler's check, or money order in connection with a transaction which involves United States coins or currency in amounts or denominations of more than \$3,000, such financial institution shall—

"(A) prepare and maintain, on a form prescribed by the Secretary of the Treasury, a record containing the information described in paragraph (2) with respect to each such transaction;

"(B) obtain any information which is necessary for such record from the person to whom such check or money order is issued or sold; and

"(C) obtain the signature of such person on such record.

"(2) INFORMATION REQUIRED TO BE OBTAINED FOR RECORD.—The record required to be prepared under paragraph (1) with respect to any transaction shall contain the following information:

"(A) The identity of the person to whom a check or money order described in paragraph (1) is issued or sold.

"(B) The date, amount, number, and type of such check or money order.

"(C) The method of payment for such check or money order by the person to whom such check or money order is issued or sold.

"(D) The aggregate amount of checks or money orders described in paragraph (1) which were issued or sold to or on behalf of such person (by any financial institution)

on the business day on which such transaction occurs, to the extent such aggregate amount exceeds \$10,000.

"(E) The name of the payee of such check or money order.

"(F) Such other information as the Secretary may prescribe.

"(3) REPORT REQUIRED IN CERTAIN CASES.—

"(A) IN GENERAL.—If, in the case of a transaction with respect to which a report is required to be prepared by a financial institution under paragraph (1)—

"(i) the aggregate amount described in paragraph (2)(D) is greater than \$10,000; or

"(ii) the person to whom a check or money order described in paragraph (1) is issued or sold refuses to provide the information necessary to determine such aggregate amount,

the transaction shall be treated as a transaction with respect to which a report is required to be filed under section 5313(a).

"(B) RECORD REQUIRED TO BE FILED WITH REPORT.—The record prepared under paragraph (1) shall be filed with the report required under subparagraph (A) of this paragraph.

"(C) NOTICE OF FAILURE TO PROVIDE AGGREGATE AMOUNT.—If a report is required under this paragraph because the person described in subparagraph (A)(ii) refused to provide the information required for purposes of paragraph (2)(D), the report shall include a notice of such refusal."

(b) INFORMATION REQUIREMENTS.—Subchapter II of chapter 53 of title 31, United States Code (as amended by subsection (a)) is amended by adding at the end thereof the following new section:

"§ 5326. Information requirements

"In each case in which a person is required to provide any information to a domestic financial institution or other person under any provision of this subchapter or any regulation prescribed under this subchapter, the information provided by such person shall be complete and accurate with respect to all material facts."

(c) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code (as amended by section 502(b)) is amended by adding at the end thereof the following new items:

"5325. Records of certain domestic coin and currency transactions.

"5326. Information requirements."

SEC. 509. CLARIFICATION OF "STATE OF MIND" STANDARD IN EFFECT FOR CIVIL MONEY AND CRIMINAL PENALTIES.

(a) CIVIL MONEY PENALTIES.—Section 5321(a)(1) of title 31, United States Code, is amended by striking out "willfully violating" and inserting in lieu thereof "who knowingly or with reckless disregard for a provision of this subchapter violates".

(b) CRIMINAL PENALTIES.—Subsections (a) and (b) of section 5322 of title 31, United States Code, are each amended by striking out "willfully" and inserting in lieu thereof "knowingly".

SEC. 510. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) CLARIFICATION OF RIGHT OF FINANCIAL INSTITUTIONS TO REPORT SUSPECTED VIOLATIONS.—Section 1103(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended by adding at the end thereof the following new sentences: "The information which a financial institution, or any officer, employee, or agent of a financial institution, may provide under this subsection shall be limited to the names, addresses, and account numbers of persons, in-

formation concerning the persons and acts involved in any possible violation, and the nature of and a description of the possible violation. No information provided under this subsection may include financial records or, except to the extent provided in the preceding sentence, information identified with, or identifiable as being derived from, the financial record of any particular customer. Such information may be so disclosed notwithstanding the constitution of any State or any State or local law."

(b) FINANCIAL RECORDS OF INSIDERS.—Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end thereof the following new subsection:

"(1) CRIMES AGAINST FINANCIAL INSTITUTIONS BY INSIDERS.—Nothing in this title shall prohibit any financial institution or supervisory agency from providing any financial record of any officer, director, employee, or controlling shareholder (within the meaning of subparagraph (A) or (B) of section 2(a)(2) of the Bank Holding Company Act of 1956 or subparagraph (A) or (B) of section 408(a)(2) of the National Housing Act) of such institution to the Attorney General of the United States, to a State law enforcement agency, or, in the case of a possible violation of subchapter II of chapter 53 of title 31, United States Code, to the Secretary of the Treasury if there is reason to believe that such record is relevant to a possible violation by such individual of—

"(1) any law relating to crimes against financial institutions or supervisory agencies by directors, officers, employees, or controlling shareholders of financial institutions; or

"(2) any provision of subchapter II of chapter 53 of title 31, United States Code."

SEC. 511. COMPLIANCE AUTHORITY FOR SECRETARY OF THE TREASURY AND RELATED MATTERS.

(a) IN GENERAL.—Section 5318 of title 31, United States Code, is amended—

(1) by inserting "(a) GENERAL POWERS OF SECRETARY.—" before "The Secretary of the Treasury";

(2) in paragraph (1), by inserting "except as provided in subsection (b)(2)," before "delegate";

(3) by striking out "and" at the end of paragraph (2);

(4) by inserting after paragraph (2) the following:

"(3) examine any books, papers, records, or other data of financial institutions relevant to the recordkeeping or reporting requirements of this subchapter;

"(4) summon a financial institution, an officer or employee of a financial institution (including a former officer or employee), or any person having possession, custody, or care of the reports and records required under this subchapter, to appear before the Secretary of the Treasury or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation described in subsection (b); and"

(5) by redesignating paragraph (3) as paragraph (5); and

(6) by adding at the end the following new subsections:

"(b) LIMITATIONS ON SUMMONS POWER.—

"(1) SCOPE OF POWER.—The Secretary of the Treasury may take any action described in paragraph (3) or (4) of subsection (a) only in connection with investigations for the purpose of civil enforcement of violations of

this subchapter, section 21 of the Federal Deposit Insurance Act, section 411 of the National Housing Act, or chapter 2 of Public Law 91-508 (12 U.S.C. 1951 et seq.) or any regulation under any such provision.

"(2) AUTHORITY TO ISSUE.—A summons may be issued under subsection (a)(4) only by, or with the approval of, the Secretary of the Treasury or a supervisory level delegate of the Secretary of the Treasury.

"(c) ADMINISTRATIVE ASPECTS OF SUMMONS.—

"(1) PRODUCTION AT DESIGNATED SITE.—A summons issued pursuant to this section may require that books, papers, records, or other data stored or maintained at any place be produced at any designated location in any State or in any territory or other place subject to the jurisdiction of the United States not more than 500 miles distant from any place where the financial institution operates or conducts business in the United States.

"(2) FEES AND TRAVEL EXPENSES.—Persons summoned under this section shall be paid the same fees and mileage for travel in the United States that are paid witnesses in the courts of the United States.

"(3) NO LIABILITY FOR EXPENSES.—The United States shall not be liable for any expense, other than an expense described in paragraph (2), incurred in connection with the production of books, papers, records, or other data under this section.

"(d) SERVICE OF SUMMONS.—Service of a summons issued under this section may be by registered mail or in such other manner calculated to give actual notice as the Secretary may prescribe by regulation.

"(e) CONTUMACY OR REFUSAL.—

"(1) REFERRAL TO ATTORNEY GENERAL.—In case of contumacy by a person issued a summons under paragraph (3) or (4) of subsection (a) or a refusal by such person to obey such summons, the Secretary of the Treasury shall refer the matter to the Attorney General.

"(2) JURISDICTION OF COURT.—The Attorney General may invoke the aid of any court of the United States within the jurisdiction of which—

"(A) the investigation which gave rise to the summons is being or has been carried on;

"(B) the person summoned is an inhabitant; or

"(C) the person summoned carries on business or may be found,

to compel compliance with the summons.

"(3) COURT ORDER.—The court may issue an order requiring the person summoned to appear before the Secretary or his delegate to produce books, papers, records, and other data, to give testimony as may be necessary to explain how such material was compiled and maintained, and to pay the costs of the proceeding.

"(4) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(5) SERVICE OF PROCESS.—All process in any case under this subsection may be served in any judicial district in which such person may be found."

(b) CONFORMING AMENDMENT.—Sections 5321 and 5322 of title 31, United States Code, are each amended by striking out "5318(2)" each place such term appears and inserting in lieu thereof "5318(a)(2)".

SEC. 512. AMENDMENTS RELATING TO EXEMPTIONS GRANTED FOR MONETARY TRANSACTION REPORTING REQUIREMENTS.

Section 5318 of title 31, United States Code (as amended by section 511) is amended by adding at the end thereof the following new subsections:

"(f) **REVIEW OF EXEMPTIONS.**—In any case in which there is a change in management or control of a financial institution, the Secretary of the Treasury shall review each currently outstanding exemption granted by such institution under subsection (a)(3) not later than 30 days after the date such change in management or control occurs.

"(g) **WRITTEN AND SIGNED STATEMENT REQUIRED.**—No person shall qualify for an exemption under subsection (a)(5) unless the relevant financial institution—

"(1) prepares and maintains a statement which—

"(A) describes in detail the reasons why such person is qualified for such exemption; and

"(B) contains the signature of such person; and

"(2) certifies to the Secretary that such person is qualified for such exemption."

SEC. 513. PENALTIES FOR FAILURE TO COMPLY WITH CERTAIN RECORDKEEPING REQUIREMENTS.

(a) **INSURED BANKS.**—Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended by adding at the end thereof the following new subsection:

"(j) **CIVIL AND CRIMINAL PENALTIES.**—

"(1) **CIVIL PENALTY.**—Any insured bank and any director, officer, or employee of an insured bank who knowingly or with reckless disregard for any regulation prescribed under subsection (b) of this section violates any such regulation shall be liable to the United States for a civil penalty of not more than \$10,000. Any penalty imposed under this paragraph shall be assessed, mitigated, and collected in the manner provided in subsections (b) and (c) of section 5321 of title 31, United States Code.

"(2) **CRIMINAL PENALTY.**—Whoever knowingly violates subsection (b) of this section or any regulation prescribed under such subsection shall be fined not more than \$250,000 or imprisoned for not more than 5 years, or both."

(b) **INSURED INSTITUTIONS.**—Section 411 of the National Housing Act (12 U.S.C. 1730d) is amended by adding at the end thereof the following new sentence: "The penalties provided in subsection (j) of section 21 of the Federal Deposit Insurance Act for violations of any regulation prescribed under subsection (b) of such section shall apply with respect to any violation of any regulation prescribed under this section which corresponds to the regulation prescribed under such subsection (b)."

SEC. 514. EXTENSION OF TIME LIMITATIONS FOR ASSESSMENT OF CIVIL PENALTY.

(a) **IN GENERAL.**—Section 5321(b) of title 31, United States Code, is amended to read as follows:

"(b) **TIME LIMITATIONS FOR ASSESSMENTS AND COMMENCEMENT OF CIVIL ACTIONS.**—

"(1) **ASSESSMENTS.**—The Secretary of the Treasury may assess a civil penalty under subsection (a) at any time before the end of the 6-year period beginning on the date of the transaction with respect to which the penalty is assessed.

"(2) **CIVIL ACTIONS.**—The Secretary may commence a civil action to recover a civil penalty assessed under subsection (a) at any time before the end of the 2-year period beginning on the later of—

"(A) the date the penalty was assessed; or

"(B) the date any judgment becomes final in any criminal action under section 5322 in connection with the same transaction with respect to which the penalty is assessed."

SEC. 515. DUTY TO INVESTIGATE APPLICANTS FOR CHANGE IN CONTROL APPROVAL.

(a) **CHANGE IN BANK CONTROL AMENDMENTS.**—Section 7(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(2)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "(2)(A) NOTICE TO STATE AGENCY.—"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) **INVESTIGATION OF PRINCIPALS REQUIRED.**—Upon receiving any notice under this subsection, the appropriate Federal banking agency shall—

"(i) conduct an investigation of the competence, experience, integrity, and financial ability of each person named in a notice of a proposed acquisition as a person by whom or for whom such acquisition is to be made; and

"(ii) make an independent determination of the accuracy and completeness of any information described in paragraph (6) with respect to such person.

"(C) **REPORT.**—The appropriate Federal banking agency shall prepare a written report of any investigation under subparagraph (B) which shall contain, at a minimum, a summary of the results of such investigation. The agency shall retain such written report as a record of the agency."

(b) **CHANGE IN SAVINGS AND LOAN CONTROL AMENDMENTS.**—Section 407(q)(2) of the National Housing Act (12 U.S.C. 1730(q)(2)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "(2)(A) NOTICE TO STATE AGENCY.—"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) **INVESTIGATION OF PRINCIPALS REQUIRED.**—Upon receiving any notice under this subsection, the Corporation shall—

"(i) conduct an investigation of the competence, experience, integrity, and financial ability of each person named in a notice of a proposed acquisition as a person by whom or for whom such acquisition is to be made; and

"(ii) make an independent determination of the accuracy and completeness of any information described in paragraph (6) with respect to such person.

"(C) **REPORT.**—The Corporation shall prepare a written report of any investigation under subparagraph (B) which shall contain, at a minimum, a summary of the results of such investigation. The Corporation shall retain such written report as a record of the Corporation."

SEC. 516. PUBLIC COMMENT ON CHANGE OF CONTROL NOTICES.

(a) **CHANGE IN BANK CONTROL AMENDMENTS.**—Section 7(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(2)) is amended by adding after subparagraph (C) (as added by section 15(a)(2)) the following new subparagraph:

"(D) **PUBLIC COMMENT.**—Upon receiving notice of a proposed acquisition, the appropriate Federal banking agency shall, within a reasonable period of time—

"(i) publish the name of the insured bank proposed to be acquired and the name of each person identified in such notice as a person by whom or for whom such acquisition is to be made; and

"(ii) solicit public comment on such proposed acquisition, particularly from persons

in the geographic area where the bank proposed to be acquired is located, before final consideration of such notice by the agency, unless the agency determines in writing that such disclosure or solicitation would seriously threaten the safety or soundness of such bank."

(b) **CHANGE IN SAVINGS AND LOAN CONTROL AMENDMENTS.**—Section 407(q)(2) of the National Housing Act (12 U.S.C. 1730(q)(2)) is amended by adding after subparagraph (C) (as added by section 15(b)(2)) the following new subparagraph:

"(D) **PUBLIC COMMENT.**—Upon receiving notice of a proposed acquisition, the Corporation shall, within a reasonable period of time—

"(i) publish the name of the insured institution proposed to be acquired and the name of each person identified in such notice as a person by whom or for whom such acquisition is to be made; and

"(ii) solicit public comment on such proposed acquisition, particularly from persons in the geographic area where the institution proposed to be acquired is located, before final consideration of such notice by the Corporation,

unless the Corporation determines in writing that such disclosure or solicitation would seriously threaten the safety or soundness of such institution."

SEC. 517. INVESTIGATIONS AND ENFORCEMENT UNDER THE CHANGE IN CONTROL ACTS.

(a) **CHANGE IN BANK CONTROL AMENDMENTS.**—Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended—

(1) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively; and

(2) by inserting after paragraph (14) the following new paragraph:

"(15) **INVESTIGATIVE AND ENFORCEMENT AUTHORITY.**—

"(A) **INVESTIGATIONS.**—The appropriate Federal banking agency may exercise any authority vested in such agency under section 8(n) in the course of conducting any investigation under paragraph (2)(B) or any other investigation which the agency, in its discretion, determines is necessary to determine whether any person has filed inaccurate, incomplete, or misleading information under this subsection or otherwise is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection.

"(B) **ENFORCEMENT.**—Whenever it appears to the appropriate Federal banking agency that any person is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection, the agency may, in its discretion, apply to the appropriate district court of the United States or the United States court of any territory for—

"(i) a temporary or permanent injunction or restraining order enjoining such person from violating this subsection or any regulation prescribed under this subsection; or

"(ii) such other equitable relief as may be necessary to prevent any such violation (including divestiture).

"(C) **JURISDICTION.**—

"(i) The district courts of the United States and the United States courts in any territory shall have the same jurisdiction and power in connection with any exercise of any authority by the appropriate Federal banking agency under subparagraph (A) as such courts have under section 8(n).

"(ii) The district courts of the United States and the United States courts of any territory shall have jurisdiction and power to issue any injunction or restraining order or grant any equitable relief described in subparagraph (B). When appropriate, any injunction, order, or other equitable relief granted under this paragraph shall be granted without requiring the posting of any bond."

(b) CHANGE IN SAVINGS AND LOAN CONTROL AMENDMENTS.—Section 407(q) of the National Housing Act (12 U.S.C. 1730(q)) is amended—

(1) by redesignating paragraphs (16) and (17) as paragraphs (17) and (18), respectively; and

(2) by inserting after paragraph (15) the following new paragraph:

"(16) INVESTIGATIVE AND ENFORCEMENT AUTHORITY.—

"(A) INVESTIGATIONS.—The Corporation may exercise any authority vested in the Corporation under paragraph (2) or (3) of subsection (m) in the course of conducting any investigation under paragraph (2)(B) or any other investigation which the Corporation, in its discretion, determines is necessary to determine whether any person has filed inaccurate, incomplete, or misleading information under this subsection or otherwise is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection.

"(B) ENFORCEMENT.—Whenever it appears to the Corporation that any person is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection, the agency may, in its discretion, apply to the appropriate district court of the United States or the United States court of any territory for—

"(i) a temporary or permanent injunction or restraining order enjoining such person from violating this subsection or any regulation prescribed under this subsection; or

"(ii) such other equitable relief as may be necessary to prevent any such violation (including divestiture).

"(C) JURISDICTION.—

"(i) The district courts of the United States and the United States courts in any territory shall have the same jurisdiction and power in connection with any exercise of any authority by the Corporation under subparagraph (A) as such courts have under paragraph (2) or (3) of subsection (m).

"(ii) The district courts of the United States and the United States courts of any territory shall have jurisdiction and power to issue any injunction or restraining order or grant any equitable relief described in subparagraph (B). When appropriate, any injunction, order, or other equitable relief granted under this paragraph shall be granted without requiring the posting of any bond."

SEC. 518. DISCUSSIONS TO DEVELOP INTERNATIONAL INFORMATION EXCHANGE SYSTEM TO ELIMINATE MONEY LAUNDERING.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Board of Governors of the Federal Reserve System, shall initiate discussions with the central banks or other appropriate governmental authorities of other countries and propose that an information exchange system be established to assist the efforts of each participating country to eliminate the international flow of money derived from illicit drug operations and other criminal activities.

(b) REPORT REQUIRED.—Before the end of the 9-month period beginning on the date of

the enactment of this Act, the Secretary of the Treasury shall prepare and transmit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of negotiations initiated pursuant to subsection (a).

SEC. 519. INCREASE IN MAXIMUM CRIMINAL FINE FOR CERTAIN OFFENSES.

Section 5322(b) of title 31, United States Code, is amended by striking out "\$500,000" and inserting in lieu thereof "\$1,000,000 if the person is an individual (and not more than \$5,000,000 in any other case)".

SEC. 520. REGULATIONS RELATING TO CUMULATION OF OFFENSES FOR FAILURE TO REPORT EXPORT OR IMPORT OF MONEY.

(a) CLOSELY RELATED EVENTS.—Section 5316 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) CUMULATION OF CLOSELY RELATED EVENTS.—The Secretary of the Treasury may prescribe regulations under this section defining the term 'at one time' for purposes of subsection (a). Such regulations may permit the cumulation of closely related events in order that such events may collectively be considered to occur at one time for the purposes of subsection (a)."

(b) INCHOATE OFFENSE.—Section 5316(a)(1) of title 31, United States Code, is amended—

(1) by striking out "or attempts to transport or have transported," and

(2) by inserting ", is about to transport," after "transports".

SEC. 521. EFFECTIVE DATES.

(a) The amendments made by sections 502 and 508 shall apply with respect to transactions for the payment, receipt, or transfer of United States coins or currency or other monetary instruments completed after the end of the 3-month period beginning on the date of the enactment of this Act.

(b) The amendments made by sections 503 and 504 shall apply with respect to violations committed after the end of the 3-month period beginning on the date of the enactment of this Act.

(c) The regulations required to be prescribed under the amendments made by section 505 shall take effect at the end of the 3-month period beginning on the date of the enactment of this Act.

(d) The amendments made by sections 509, 513, 514, and 519 shall apply with respect to violations committed after the date of the enactment of this Act.

(e) The amendments made by sections 507, 515, 516, and 517 shall apply with respect to notices of proposed acquisitions filed after the date of the enactment of this Act.

(f) Any regulation prescribed under the amendments made by section 520 shall apply with respect to transactions completed after the effective date of such regulation.

Subtitle B—Multilateral Development Banks

SEC. 531. SHORT TITLE.

This subtitle may be cited as the "Drug Eradication Act of 1986".

SEC. 532. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The illegal use of controlled substances by citizens of the United States represents a clear, present, and growing danger to the health, well-being, and productivity of the American people.

(2) More than \$100,000,000,000 of controlled substances will be sold and used by Americans in 1986 and expenditures on such controlled substances will continue to rise at a rate of \$10,000,000,000 per year unless effective action is taken to reduce and eliminate international commerce in such substances.

(3) Most of the controlled substances used in the United States are cultivated and produced in and exported from the major illicit drug producing countries, and the multilateral development banks make loans to these countries.

(4) The monetary earnings from participation in international trade in controlled substances has directly contributed to the growth of an underground economy in the major illicit drug producing countries, which inhibits realization of legitimate foreign exchange earnings and thereby exacerbates the international debt crisis and the long-term economic development of these countries.

(5) In order to achieve a reduction in controlled substance abuse in the United States, priority must be given to improved interdiction efforts, including more effective interception of controlled substances being imported into the United States from foreign nations, and reductions in the cultivation of controlled substances or raw materials for such substances in foreign nations and the United States.

(6) Certain nations are so economically dependent on commerce involving drugs and controlled substances that economic, legal, and administrative assistance must be targeted to those nations to wean them of their economic drug dependency.

(7) The United States Government should take steps to encourage nations in which controlled substances are produced or from which controlled substances are exported to develop effective programs to stop such production and exportation and to seek other means of economic livelihood.

(8) The multilateral development banks are the largest single source of development finance and influential providers of advice in helping establish development priorities for the developing countries.

(9) The United States retains considerable influence in the multilateral development banks and should therefore use such influence to urge these institutions to place increased emphasis in their lending programs and use their considerable policy leverage to address the problem of cultivation of controlled substances and the raw materials for production of such substances.

(b) DECLARATION OF PURPOSES.—The Congress declares that the purposes of this subtitle are to—

(1) eradicate illicit narcotic drug cultivation and production in developing countries; and

(2) stimulate effective action to ensure the development and implementation of long-term economic strategies to promote growth in developing countries which are not dependent on the drug trade.

SEC. 533. NATIONAL DRUG ERADICATION PROGRAMS IN DEVELOPING COUNTRIES.

(a) ESTABLISHMENT OF NATIONAL DRUG ERADICATION PROGRAMS.—The United States Government, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank (hereinafter in this section re-

ferred to as the "multilateral development banks") shall promote the development and implementation, by all countries in which narcotic drugs and other controlled substances are cultivated or produced or from which narcotic drugs and other controlled substances are exported, of clear and feasible programs for the reduction and eventual eradication of illicit narcotic drugs and other controlled substances in such countries.

(b) **CRITERIA FOR PROGRAMS.**—The drug eradication program developed by each such country shall include—

(1) a detailed description of the manner in which precise reductions in the amount of illicit narcotic drugs and other controlled substances known to be cultivated or produced in such country will be made;

(2) a timetable indicating the times by which the reductions described in paragraph (1) will be made; and

(3) a description of alternate economic activities which could be implemented with the assistance and support of the multilateral development banks to replace the economic benefits derived from the cultivation and production of controlled substances.

(c) **MDB ASSISTANCE FOR DEVELOPMENT AND IMPLEMENTATION OF PROGRAMS.**—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other directors of their respective banks and to propose that all possible assistance be provided to each country described in subsection (a) in developing and implementing the drug eradication program described in that subsection, including technical assistance, assistance in conducting feasibility studies and economic analyses, and assistance for alternate economic activities described in subsection (b)(3).

(d) **CERTIFICATION OF PROGRAM.**—The Secretary of State, in cooperation with the Administrator of the Drug Enforcement Administration, shall examine the drug eradication program developed by each major illicit drug producing country to determine whether such drug eradication program is adequate to meet the purposes of this subtitle. If the Secretary determines, with the concurrence of the Administrator, that the program is adequate for such purposes, the Secretary shall certify to the Secretary of the Treasury that such determination has been made.

(e) **ANNUAL REVIEW OF PROGRAM.**—After a drug eradication program has been certified under subsection (d), the Secretary of State, in cooperation with the Administrator of the Drug Enforcement Administration, shall review on an annual basis the implementation and operation of the drug eradication program to determine whether adequate progress has been made in meeting the goals and the timetable established under such program. If the Secretary determines, with the concurrence of the Administrator, that adequate progress has been made, the Secretary shall certify to the Secretary of the Treasury that such determination has been made.

(f) **EXECUTIVE DIRECTORS TO VOTE AGAINST LOANS TO COUNTRIES WHICH FAIL TO DEVELOP DRUG ERADICATION PROGRAMS.**—If, by the end of the 1-year period beginning on the date of the enactment of this subtitle, the Secretary of the Treasury has not received certification under subsection (d) that a major illicit drug producing country has developed an adequate drug eradication program, the Secretary shall instruct the United States Executive Directors of the

multilateral development banks to vote against loans or other utilization of funds of the respective banks for the benefit of such country until such time as the Secretary instructs such Directors that such certification has been received unless the loans or utilization of funds are directed specifically to programs which serve the basic human needs of the citizens of such country.

(g) **EXECUTIVE DIRECTORS TO VOTE AGAINST LOANS TO COUNTRIES WHICH FAIL TO CARRY OUT DRUG ERADICATION PROGRAMS.**—If, by the end of any calendar year beginning after the 1-year period described in subsection (f), the Secretary of the Treasury has not received certification under subsection (e) (with respect to such year) that a major illicit drug producing country is making adequate progress in carrying out its drug eradication program, the Secretary shall instruct the United States Executive Directors of the multilateral development banks to vote against loans or other utilization of funds of the respective banks for the benefit of such country until such time as the Secretary instructs such Directors that such certification has been received unless the loans or utilization of funds are directed specifically to programs which serve the basic human needs of the citizens of such country.

(h) **INCREASES IN MULTILATERAL DEVELOPMENT BANK LENDING FOR CROP SUBSTITUTION PROJECTS.**—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that each such bank increase the amount of lending by such bank for crop substitution programs which will provide an economic alternative for the cultivation or production of illicit narcotic drugs or other controlled substances in countries described in subsection (a), to the extent such countries develop and maintain adequate drug eradication programs.

(i) **REPORTING REQUIREMENT.**—

(1) **NATIONAL ADVISORY COUNCIL REPORT.**—The Secretary of the Treasury shall include in the annual report to the Congress by the National Advisory Council on International Monetary and Financial Policies a detailed accounting of the manner in which and the extent to which the requirements of this section have been carried out.

(2) **INTERNATIONAL NARCOTICS STRATEGY REPORT.**—The accounting made under paragraph (1) shall also be included in the report submitted to the Congress pursuant to section 481(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)).

(j) **DEFINITIONS.**—For purposes of this section—

(1) the terms "controlled substance", "narcotic drug", and "Drug Enforcement Administration" have the meanings given to such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802); and

(2) the term "major illicit drug producing country" has the meaning provided in section 481(i)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(2)).

SEC. 534. CONFORMING AMENDMENTS.

(a) **INTERNATIONAL DEVELOPMENT ASSOCIATION ACT.**—Section 13 of the International Development Association Act (22 U.S.C. 284k) is amended to read as follows:

"SEC. 13. OPPOSITION TO ASSISTANCE FOR MAJOR ILLICIT DRUG PRODUCING COUNTRIES WHICH FAIL TO TAKE ADEQUATE DRUG CONTROL MEASURES.

"The Secretary of the Treasury shall instruct the United States Executive Directors

of the International Bank for Reconstruction and Development and the International Development Association to vote against any loan or other utilization of funds of the Bank and the Association for the benefit of any major illicit drug producing country when such action is required—

"(1) by the Drug Eradication Act of 1986; or

"(2) by section 481(h)(1)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(B))."

(b) **INTER-AMERICAN BANK ACT.**—Section 22 of the Inter-American Development Bank Act (22 U.S.C. 283s) is amended to read as follows:

"SEC. 22. OPPOSITION TO ASSISTANCE FOR MAJOR ILLICIT DRUG PRODUCING COUNTRIES WHICH FAIL TO TAKE ADEQUATE DRUG CONTROL MEASURES.

"The Secretary of the Treasury shall instruct the United States Executive Director of the Bank to vote against any loan or other utilization of funds of the Bank for the benefit of any major illicit drug producing country when such action is required—

"(1) by the Drug Eradication Act of 1986; or

"(2) by section 481(h)(1)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(B))."

(c) **ASIAN DEVELOPMENT BANK ACT.**—Section 19 of the Asian Development Bank Act (22 U.S.C. 285p) is amended to read as follows:

"SEC. 19. OPPOSITION TO ASSISTANCE FOR MAJOR ILLICIT DRUG PRODUCING COUNTRIES WHICH FAIL TO TAKE ADEQUATE DRUG CONTROL MEASURES.

"The Secretary of the Treasury shall instruct the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of funds of the Bank for the benefit of any major illicit drug producing country when such action is required—

"(1) by the Drug Eradication Act of 1986; or

"(2) by section 481(h)(1)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(B))."

(d) **AFRICAN DEVELOPMENT BANK ACT.**—The African Development Bank Act (22 U.S.C. 290i et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1343. OPPOSITION TO ASSISTANCE FOR MAJOR ILLICIT DRUG PRODUCING COUNTRIES WHICH FAIL TO TAKE ADEQUATE DRUG CONTROL MEASURES.

"The Secretary of the Treasury shall instruct the United States Executive Director of the African Development Bank to vote against any loan or other utilization of funds of the Bank for the benefit of any major illicit drug producing country when such action is required—

"(1) by the Drug Eradication Act of 1986; or

"(2) by section 481(h)(1)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(B))."

(e) **FOREIGN ASSISTANCE ACT OF 1961.**—Section 481(h)(1)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(B)) is amended by inserting "the United States Executive Director of the African Development Bank," after "Inter-American Development Bank,".

TITLE VI—COMMITTEE ON THE JUDICIARY

Subtitle A—Money Laundering

SEC. 601. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Control Act of 1986".

SEC. 602. MONEY LAUNDERING OFFENSES.

(a) IN GENERAL.—Chapter 95 (relating to racketeering) of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1956. Money laundering defined and prohibited

"(a) OFFENSES.—(1) Whoever, in any of the circumstances set forth in subsection (d), knowingly engages or attempts to engage in a financial transaction in criminally derived property that is derived from a designated offense shall be punished as provided in subsection (b). This paragraph does not apply to financial transactions involving the bona fide fees an attorney accepts for representing a client in a criminal investigation or any proceeding arising therefrom.

"(2) Whoever, in any of the circumstances set forth in subsection (d), knowingly engages or attempts to engage in a commercial transaction, knowing the transaction is part of a scheme—

"(A) to conceal criminally derived property that is derived from a designated offense; or

"(B) to disguise the source or ownership of, or control over, criminally derived property that is derived from a designated offense;

shall be punished as provided in subsection (b).

"(3) Whoever knowingly transports or attempts to transport a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, knowing that such transportation is part of a scheme—

"(A) to conceal criminally derived property that is derived from a designated offense; or

"(B) to disguise the source or ownership of, or control over, criminally derived property that is derived from a designated offense;

shall be punished as provided in subsection (b).

"(b) PUNISHMENT.—(1) Except as provided in paragraph (2), the punishment for an offense under this section is—

"(A) a fine of not more than \$1,000,000 or imprisonment for not more than 20 years, or both, if the offender is an individual; and

"(B) a fine of not more than \$5,000,000, if the offender is a person other than an individual.

"(2) The court may impose an alternate fine to that imposed under paragraph (1) of not more than twice the amount of the property, funds, or monetary instrument involved in the transaction.

"(c) STATE OF MIND RELATING TO OFFENSE FROM WHICH PROPERTY WAS DERIVED.—In a prosecution for an offense under this section, the Government is not required to prove the defendant knew that the offense from which the criminally derived property was derived was a designated offense.

"(d) CIRCUMSTANCES REQUIRED.—The circumstances referred to in subsection (a) are—

"(1) that the offense under this section takes place in the United States or in the special maritime and territorial jurisdiction of the United States; or

"(2) that the offense under this section takes place outside the United States and

such special jurisdiction, but the defendant is a United States person (as defined in section 3077 of this title, but excluding the class described in paragraph (2)(D) of such section).

"(e) INVESTIGATIVE JURISDICTION.—The Secretary of the Treasury shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section, and may delegate such authority to the Internal Revenue Service as appropriate. Such authority of the Secretary of the Treasury shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

"(f) CRIMINAL FORFEITURE.—(1) The court, in imposing sentence on a person convicted of an offense under this section based on conduct consisting of providing services to another that are illegal under this section, shall order that the person forfeit to the United States any property constituting, or derived from, any gross receipts the person obtained, directly or indirectly, as a result of such offense.

"(2) Subsections (c) and (e) through (o) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853) apply with respect to property subject to forfeiture under this subsection, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, to the extent not inconsistent with this section, as they apply to property subject to forfeiture under that Act.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'financial transaction' means the deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument by, through, or to a financial institution (as defined in section 5312(a)(2) of title 31);

"(2) the term 'commercial transaction' means—

"(A) a financial transaction;

"(B) the creation, in or affecting interstate or foreign commerce, of a debt; or

"(C) the purchase or sale, in or affecting interstate or foreign commerce, of any property of a fair market value or for a price—

"(i) greater than \$10,000; or

"(ii) equal to or less than \$10,000, if effected with the intent to evade criminal jurisdiction under clause (i);

"(3) the term 'criminally derived property' means any property constituting, or derived from, proceeds obtained from a criminal offense;

"(4) the term 'designated offense' means—

"(A) an offense against the United States that is listed in section 1961(l) of this title;

"(B) an offense under section 152 (relating to concealment of assets; false oaths and claims; bribery), section 215 (relating to commissions or gifts for procuring loans), any of sections 500 through 503 (relating to certain counterfeiting offenses), section 511 (relating to securities of States and private entities), section 545 (relating to smuggling goods into the United States), section 641 (relating to public money, property, or records), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), section 666 (relating to theft or bribery concerning programs receiving Federal funds), any of section 793 or 794 (relating to espionage), section 798 (relating to disclosure of classified information), section 875 (relating to interstate communications), section 1201 (relating to kidnapping),

section 1203 (relating to hostage taking), section 1344 (relating to bank fraud), or either of section 2113 or 2114 (relating to bank and postal robbery and theft) of this title, or under section 38 of the Arms Export Control Act (22 U.S.C. 2778), or section 203 (relating to criminal violations) of the International Economic Powers Act (50 U.S.C. 1702), section 3 (relating to criminal violations) of Trading with the Enemy Act (50 U.S.C. App. 3) or section 2 (relating to criminal violations) of the Export Administration Act of 1979 (50 U.S.C. App. 2401); or

"(C) with respect to a financial transaction or commercial transaction in the United States, an offense against any foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act); and

"(5) the term 'monetary instrument' has the meaning given that term for the purposes of subchapter II of chapter 53 of title 31.

"§ 1957. Civil forfeiture in connection with money laundering

"(a) GENERAL RULE.—The following property is subject to forfeiture to the United States:

"(1) Any property constituting, or derived from, any gross receipts a person obtains, directly or indirectly, as a result of a violation of section 1956 of this title that is based on conduct consisting of providing services to another that are illegal under that section.

"(2) Any property, funds, or monetary instrument involved in a transaction in violation of section 1956 of this title, or the proceeds derived from such property, funds, or instrument, if the designated offense is an offense described in section 1956(g)(4)(C) of this title.

"(b) SEIZURE.—Any property subject to forfeiture to the United States under this section may be seized by the Attorney General or the Secretary of the Treasury, upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

"(1) the seizure is pursuant to a lawful arrest or search; or

"(2) the Attorney General or the Secretary of the Treasury, as the case may be, has obtained a warrant for such seizure under the Federal Rules of Criminal Procedure, in which event proceedings under subsection (d) of this section shall be instituted promptly.

"(c) PRESERVATION OF PROPERTY PENDING OUTCOME OF LITIGATION.—Property taken or detained under this section shall not be replevable, but shall be deemed to be in the custody of the Attorney General or the Secretary of the Treasury, as the case may be, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this subsection, the Attorney General or the Secretary of the Treasury, as the case may be, may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) PROCEDURE.—For the purposes of this section the provisions of the customs laws relating to the seizure, summary and judicial forfeiture, condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims (19 U.S.C. 1602 et seq.), insofar as they are applicable and not inconsistent with the provisions of this section, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General or the Secretary of the Treasury, as the case may be.

"(e) DISPOSITION.—(1) Notwithstanding any other provision of the law, the Attorney General or the Secretary of the Treasury, as the case may be, is authorized to retain property forfeited pursuant to this section, or to transfer such property, or the proceeds of the sale of such property, on such terms and conditions as the Attorney General or the Secretary of the Treasury, as the case may be, may determine to—

"(A) any other Federal agency; or

"(B) any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property.

"(2) The Attorney General or the Secretary of the Treasury, as the case may be, shall ensure the equitable transfer pursuant to paragraph (1)(B) of this subsection of any forfeited property (or the proceeds of the sale of such property) to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General or the Secretary pursuant to paragraph (1)(B) shall not be subject to review. The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency.

"(3) The Attorney General or the Secretary of the Treasury may order the discontinuance of any forfeiture proceedings under this section in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. After the filing of a complaint for forfeiture under this section, the Attorney General may seek dismissal of the complaint in favor of forfeiture proceedings under State or local law.

"(4) Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, the United States may transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials.

"(5) Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of the discontinuance or dismissal. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials.

"(f) VESTING OF TITLE.—All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(g) RELATION TO CRIMINAL PROCEEDINGS.—The filing of an indictment or information alleging a violation of law which is also related to a forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the forfeiture proceeding.

"(h) ADDITIONAL VENUE.—In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought."

"(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 95 (relating to racketeering) of title 18, United States Code, is amended by adding at the end the following:

"1956. Money laundering defined and prohibited.

"1957. Civil forfeiture in connection with money laundering."

"(c) WIRETAP AUTHORITY.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 1956 (money laundering)," after "section 1955 (prohibition of business enterprises of gambling)."

SEC. 603. DISCLOSURE OF INFORMATION BY FINANCIAL INSTITUTIONS.

"(a) PROTECTION FROM LIABILITY.—Section 1117(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3417(c)) is amended—

"(1) by inserting "or providing in good faith a notification referred to in section 1103(c) of this Act" after "authority"; and

"(2) by inserting "or notification" after "such disclosure".

"(b) NONDISCLOSURE ORDER.—Section 1113(i) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(i)) is amended by adding at the end the following: "A court may, for a cause shown that would justify delay in notice under section 1109, issue an order precluding, for such time as the court deems appropriate, the recipient of a grand jury subpoena for financial records from notifying any other person (except the recipient's attorney) of the existence of the subpoena."

Subtitle B—Designer Drugs

SEC. 605. SHORT TITLE.

This subtitle may be cited as the "Designer Drug Enforcement Act of 1986".

SEC. 606. INCLUSION OF DESIGNER DRUGS IN CONTROLLED SUBSTANCES ACT.

"(a) DEFINITION.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following:

"(31)(A) Except as provided in subparagraph (B), the term 'controlled substance analogue' means a substance—

"(i) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II; and

"(ii)(I) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system; or

"(II) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system

substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance.

"(B) Such term does not include—

"(i) a controlled substance;

"(ii) any substance for which there is an approved new drug application;

"(iii) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to such substance is pursuant to such exemption; or

"(iv) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance."

"(b) TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES.—Part B of the Controlled Substances Act is amended by adding at the end the following new section:

"TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES

"SEC. 203. A controlled substance analogue shall, to the extent intended for human consumption, be treated, for the purposes of this title and title III as a controlled substance in schedule I."

"(c) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 202 the following new item:

"Sec. 203. Treatment of controlled substance analogues."

Subtitle C—More Effective Criminal Penalties

SEC. 607. SHORT TITLE.

This subtitle may be cited as the "Narcotics Penalties and Enforcement Act of 1986".

PART I—CONTROLLED SUBSTANCES PENALTIES

SEC. 608. PENALTIES FOR MAJOR TRAFFICKERS, PENALTIES FOR SERIOUS TRAFFICKERS, AND OTHER PENALTY INCREASE AMENDMENTS TO SECTION 401 OF THE CONTROLLED SUBSTANCES ACT.

"(a) PENALTY INCREASE.—Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by striking out subsection (b) and all that follows through the end of the section and inserting in lieu thereof the following:

"(b) Except as otherwise provided in section 405, 405A, or 405B, any person who violates subsection (a) of this section shall be sentenced as follows:

"(1)(A) In the case of a violation of subsection (a) of this section involving—

"(i) 1 kilogram or more of a mixture, preparation, or compound containing a detectable amount of heroin;

"(ii) 5 kilograms or more of a mixture, preparation, or compound containing a detectable amount of cocaine (other than cocaine freebase), ecgonine, their salts, optical and geometric isomers, and salts of isomers;

"(iii) 2,500 grams or more, or 6,000 tablets or more, of a mixture, preparation, or compound containing a detectable amount of a narcotic drug in schedule I or schedule II (other than a substance described in clause (ii));

"(iv) 100 grams or more of a mixture, preparation, or compound containing a detectable amount of cocaine freebase;

"(v) 100 grams or more of a mixture, preparation, or compound containing a detectable amount of a controlled substance analogue;

"(vi) 100 grams or more of a mixture, preparation, or compound containing a detectable amount of a fentanyl analogue;

"(vii)(I) 946 milliliters or more of a liquid mixture, preparation, or compound containing a detectable amount of phencyclidine; or

"(II) 34 grams or more of pure phencyclidine or 340 grams or more of a solid mixture, preparation, or compound containing a detectable amount of phencyclidine; or

"(viii) 1 gram or more of a mixture, preparation, or compound containing a detectable amount of lysergic acid diethylamide;

such person shall be sentenced to a term of imprisonment of not less than 10 years and not more than 30 years, and a fine of not more than \$2,000,000, or both in the case of an individual, or to a fine of not more than \$5,000,000, in the case of a person other than an individual. If the offense under this subparagraph is a second or subsequent controlled substances offense, such person shall be sentenced to a term of imprisonment for any term of not less than 20 years, or to imprisonment for life, and a fine of not more than \$4,000,000, or both in the case of an individual, or to a fine of not more than \$10,000,000, in the case of a person other than an individual. Any sentence imposing a term of imprisonment under this subparagraph shall, in the absence of such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 8 years in addition to such term of imprisonment.

"(B) In the case of a violation of subsection (a) of this section involving—

"(i) 125 grams or more of a mixture, preparation, or compound containing a detectable amount of heroin;

"(ii) 1 kilogram or more of a mixture, preparation, or compound containing a detectable amount of cocaine (other than cocaine freebase), ecgonine, their salts, optical and geometric isomers, and salts of isomers;

"(iii) 125 grams or more, or 300 tablets or more, of a mixture, preparation, or compound containing a detectable amount of a narcotic drug in schedule I or schedule II, (other than a substance described in clause (ii));

"(iv) 20 grams or more of a mixture, preparation, or compound containing a detectable amount of cocaine freebase;

"(v) 10 grams or more of a mixture, preparation, or compound containing a detectable amount of a controlled substance analogue;

"(vi) 10 grams or more of a mixture, preparation, or compound containing a detectable amount of a fentanyl analogue;

"(vii)(I) 28 milliliters or more of a liquid mixture, preparation, or compound containing a detectable amount of phencyclidine; or

"(II) 10 grams or more of pure phencyclidine or 100 grams or more of a solid mixture, preparation, or compound containing a detectable amount of phencyclidine; or

"(viii) 500 milligrams or more of a mixture, preparation, or compound containing a detectable amount of lysergic acid diethylamide;

such person shall be sentenced to a term of imprisonment of not less than 5 and not more than 20 years, a fine of not more than \$1,000,000, or both if such person is an individual, or to a fine of not more than \$3,000,000 if such person is other than an individual. If the offense under this subparagraph is a second or subsequent controlled substances offense, such person shall be sentenced to a term of imprisonment of not less than 10 years and not more than 40

years, and a fine of not more than \$2,000,000, or both in the case of an individual, or to a fine of not more than \$6,000,000, in the case of a person other than an individual. Any sentence imposing a term of imprisonment under this subparagraph shall, in the absence of such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 8 years in addition to such term of imprisonment.

"(C)(i) In the case of—

"(I) a controlled substance in schedule I or II (other than a narcotic drug, a controlled substance analogue, or phencyclidine);

"(II) an amphetamine in schedule III, its salts, optical isomers, and salts of its optical isomers;

"(III) a methamphetamine in schedule III, its salts, isomers, and salts of its isomers;

"(IV) a phenmetrazine in schedule III, and its salts;

"(V) a methylphenidate in schedule III;

"(VI) benzphetamine;

"(VII) chlorphentermine;

"(VIII) clortermine; or

"(IX) phendimetrazine;

such person shall be sentenced to a term of imprisonment of not more than 15 years, a fine of \$500,000, or both if such person is an individual, or to a fine of not more than \$2,000,000 if such person is other than an individual.

"(ii) In the case of a controlled substance analogue or a controlled substance in schedule I or II that is a narcotic drug or phencyclidine, such person shall be sentenced to a term of imprisonment of not more than 15 years, a fine of \$1,000,000, or both if such person is an individual, or to a fine of not more than \$5,000,000 if such person is other than an individual.

"(iii) If the offense under this subparagraph is a second or subsequent controlled substances offense such person shall—

"(I) be sentenced to a term of imprisonment of not more than 30 years, a fine of not more than \$1,000,000, or both if such person is an individual, or to a fine of not more than \$4,000,000 if such person is other than an individual (if the offense is described in clause (i)); and

"(II) be sentenced to a term of imprisonment of not more than 30 years, a fine of \$2,000,000, or both if such person is an individual, or to a fine of not more than \$10,000,000 if such person is other than an individual (if the offense is described in clause (ii)).

"(iv) Any sentence imposing a term of imprisonment under this subparagraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment.

"(D) In the case of less than 50 kilograms of marihuana, 10 kilograms of hashish, or one kilogram of hashish oil or in the case of any controlled substance in schedule III (other than a substance listed in any of subclauses (II) through (IX) of subparagraph (C)(i)), such person shall, except as provided in paragraph (4), be sentenced to a term of imprisonment of not more than 5 years, a fine of not more than \$250,000, or both if such person is an individual, or to a fine of not more than \$1,000,000 if such person is

other than an individual. If the offense under this subparagraph is a second or subsequent controlled substances offense such person shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than \$500,000, or both if such person is an individual, or to a fine of not more than \$2,000,000 if such person is other than an individual. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment.

"(E) Imposition or execution of a sentence of imprisonment under subparagraph (A) or subparagraph (B) shall not be suspended, and probation shall not be granted with respect to such sentence. A person convicted under subparagraph (A) or subparagraph (B) shall not be eligible for parole until the individual has served the minimum sentence required by such subparagraph.

"(2) In the case of a controlled substance in schedule IV, such person shall be sentenced to a term of imprisonment of not more than 3 years, a fine of not more than \$250,000, or both if such person is an individual, or to a fine of not more than \$1,000,000 if such person is other than an individual. If the offense under this paragraph is a second or subsequent controlled substances offense such person shall be sentenced to a term of imprisonment of not more than 6 years, a fine of \$500,000, or both if such person is an individual, or to a fine of not more than \$2,000,000 if such person is other than an individual. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least one year in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment.

"(3) In the case of a controlled substance in schedule V, such person shall be sentenced to a term of imprisonment of not more than one year, a fine of not more than \$100,000, or both if such person is an individual, or to a fine of not more than \$250,000 if such person is other than an individual. If the offense under this paragraph is a second or subsequent controlled substances offense such person shall be sentenced to a term of imprisonment of not more than 2 years, a fine of not more than \$250,000, or both if such person is an individual, or to a fine of not more than \$500,000 if such person is other than an individual.

"(4) Notwithstanding paragraph (1)(D) of this subsection, any person who violates subsection (a) of this section by distributing a small amount of marihuana for no remuneration shall be treated as provided in section 404.

"(c) A special parole term imposed under this section or section 405, 405A, or 405B may be revoked if its terms and conditions are violated. In such circumstances the original term of imprisonment shall be increased by the period of the special parole term and the resulting new term of imprisonment shall not be diminished by the time which was spent on special parole. A person whose special parole term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment. A special parole term provided for in

this section or section 405, 405A, or 405B shall be in addition to, and not in lieu of, any other parole provided for by law.

"(d) Any person who knowingly or intentionally—

"(1) possesses any piperidine with intent to manufacture phencyclidine except as authorized by this title, or

"(2) possesses any piperidine knowing, or having reasonable cause to believe, that the piperidine will be used to manufacture phencyclidine except as authorized by this title,

shall be sentenced to a term of imprisonment of not more than 5 years, a fine of not more than \$15,000, or both.

"(e) For purposes of this section, a person shall be considered convicted of a second or subsequent controlled substances offense if, before the commission of such offense, at least one felony conviction of such person under this title, title III, or any other law of the United States, or any law of a State or a foreign country relating to narcotic drugs, marijuana, or depressant or stimulant substances, has become final."

(b) CONFORMING PROSPECTIVE AMENDMENTS.—(1) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking out the last sentence.

(2) Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended by striking out the last sentence.

(3) Section 401(b)(1)(C) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(C)) is amended by striking out clause (iv).

(4) Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended by striking out the last sentence.

(5) Section 401(b)(2) of the Controlled Substances Act (21 U.S.C. 841(b)(2)) is amended by striking out the last sentence.

(6) Section 401(b)(4) of the Controlled Substances Act (21 U.S.C. 841(b)(4)) is amended by striking out "404" and inserting in lieu thereof "404(a), section 404(b), and section 3607 of title 18, United States Code".

(7) The amendments made by this subsection shall take effect on the date of the taking effect of section 224 of the Comprehensive Crime Control Act of 1984.

SEC. 609. FINE INCREASE AMENDMENT TO SECTION 402(c)(2)(A) OF THE CONTROLLED SUBSTANCES ACT.

Section 402(c)(2)(A) of the Controlled Substances Act (21 U.S.C. 842(c)(2)(A)) is amended by striking out "\$25,000, or both" and inserting in lieu thereof "\$250,000, or both if such person is an individual, or to a fine of not more than \$500,000 if such person is other than an individual".

SEC. 610. FINE INCREASE AMENDMENT TO SECTION 402(c)(2)(B) OF THE CONTROLLED SUBSTANCES ACT.

Section 402(c)(2)(B) of the Controlled Substances Act (21 U.S.C. 842(c)(2)(B)) is amended by striking out "\$50,000, or both" and inserting in lieu thereof "\$500,000, or both if such person is an individual, or to a fine of not more than \$1,000,000 if such person is other than an individual".

SEC. 611. FINE INCREASE AMENDMENT TO SECTION 403(c) OF THE CONTROLLED SUBSTANCES ACT.

Section 403(c) of the Controlled Substances Act (21 U.S.C. 843(c)) is amended—

(1) by striking out "\$30,000, or both" and inserting in lieu thereof "\$250,000, or both if such person is an individual, or to a fine of not more than \$1,000,000 if such person is other than an individual"; and

(2) by striking out "\$60,000, or both" and inserting in lieu thereof "\$500,000, or both

if such person is an individual, or to a fine of not more than \$2,000,000 if such person is other than an individual".

SEC. 612. AMENDMENTS TO SECTION 404 OF THE CONTROLLED SUBSTANCES ACT.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by adding at the end the following new subsection:

"(c)(1) It shall be unlawful for any person, in the special maritime and territorial jurisdiction of the United States, as defined in section 7 of title 18, United States Code, knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this title or title III.

"(2)(A) Except as provided in subparagraph (B) or (C), any person who violates this subsection shall be sentenced to a term of imprisonment of not more than one year, and shall be fined a minimum of \$1,000 but not more than \$5,000, or both.

"(B) Any person who violates this subsection after a prior conviction under this subsection, or a prior conviction for any drug or narcotic offense chargeable under the law of any State, has become final, shall be sentenced to a term of imprisonment of a minimum 15 days but not more than 2 years, and shall be fined a minimum of \$2,500 but not more than \$10,000, or both.

"(C) Any person who violates this subsection after 2 or more prior convictions under this subsection, or 2 or more prior convictions for any drug or narcotic offense chargeable under the law of any State or a combination of 2 or more such offenses have become final, shall be sentenced to a term of imprisonment of a minimum of 90 days but not more than 3 years, and shall be fined a minimum of \$5,000 but not more than \$25,000.

"(D) The imposition or execution of a minimum sentence required to be imposed under this subsection shall not be suspended or deferred. Upon conviction, a person who violates this subsection shall be taxed the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in section 1918 and section 1920 of title 28, United States Code.

"(E) As used in this subsection, the term 'drug or narcotic offense' means any offense chargeable under the law of any State which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under this Act."

SEC. 613. FINE INCREASE AMENDMENT TO SECTION 408(a) OF THE CONTROLLED SUBSTANCES ACT.

Section 408(a) of the Controlled Substances Act (21 U.S.C. 848(a)) is amended—

(1) by striking out "\$100,000" and inserting in lieu thereof "\$2,000,000 if such person is an individual, or a fine of not more than \$5,000,000 if such person is other than an individual"; and

(2) by striking out "\$200,000" and inserting in lieu thereof "\$4,000,000 if such person is an individual, or a fine of not more than \$10,000,000 if such person is other than an individual".

SEC. 614. SPECIAL TERM OF IMPRISONMENT FOR CERTAIN OFFENSES UNDER THE CONTROLLED SUBSTANCES ACT RESULTING IN DEATH OR SERIOUS BODILY INJURY.

Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end the following new section:

"SPECIAL TERM OF IMPRISONMENT FOR CERTAIN OFFENSES RESULTING IN DEATH OR SERIOUS BODILY INJURY

"Sec. 416. (a) In the case of an offense under subparagraph (A), (B), or (C) of section 401(b)(1) of this title, from which death or serious bodily injury results, the defendant shall be sentenced (in addition to any fine otherwise applicable under such subparagraph) to imprisonment for any term of not less than 20 years, or to imprisonment for life.

"(b) As used in this section—

"(1) the term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) unconsciousness;

"(C) extreme physical pain;

"(D) protracted and obvious disfigurement; or

"(E) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

"(2) the term 'results' includes results from the use of a quantity of controlled substance involved in the offense.

"(c) Imposition or execution of a sentence of imprisonment under this section shall not be suspended, and probation shall not be granted with respect to such sentence. A person convicted under this section shall not be eligible for parole until the individual has served the minimum sentence required by this section."

SEC. 615. PENALTIES FOR SERIOUS TRAFFICKERS: AMENDMENT TO SECTION 1010(b) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) SECTION 1010(b)(1) AMENDMENT.—Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended to read as follows:

"(b)(1)(A)(i) In the case of a violation of subsection (a) of this section involving a controlled substance and the minimum amount specified for that controlled substance in section 401(b)(1)(A), the person committing such violation shall be sentenced to a term of imprisonment of not less than 10 years and not more than 30 years, and a fine of not more than \$2,000,000, or both in the case of an individual, or to a fine of not more than \$5,000,000, in the case of a person other than an individual.

"(ii) If the offense under this subparagraph is a second or subsequent offense, such person shall be sentenced to a term of imprisonment of not less than 20 years, or to imprisonment for life, and a fine of not more than \$4,000,000, or both in the case of an individual, or to a fine of not more than \$10,000,000, in the case of a person other than an individual.

"(B)(i) In the case of a violation of subsection (a) of this section involving a controlled substance and the minimum amount specified for that controlled substance in section 401(b)(1)(B), the person committing such violation shall be sentenced to a term of imprisonment of not less than 5 and not more than 20 years, a fine of not more than \$2,000,000, or both if such person is an individual, or to a fine of not more than \$5,000,000 if such person is other than an individual.

"(ii) If the offense under this subparagraph is a second or subsequent offense, such person shall be sentenced to a term of imprisonment of not less than 10 years and not more than 40 years, and a fine of not more than \$4,000,000, or both in the case of an individual, or to a fine of not more than \$10,000,000, in the case of a person other than an individual.

"(C) Imposition or execution of a sentence of imprisonment under this paragraph shall not be suspended, and probation shall not be granted with respect to such sentence. A person convicted under this paragraph shall not be eligible for parole until the individual has served the minimum sentence required by this paragraph.

"(D) Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 8 years in addition to such term of imprisonment."

(b) CONFORMING AMENDMENTS.—(1) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended by striking out subparagraph (D).

(2) The amendment made by this subsection shall take effect on the date of the taking effect of section 225 of the Comprehensive Crime Control Act of 1984.

SEC. 616. FINE INCREASE AMENDMENT TO SECTION 1010(b)(2) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended in the first sentence by striking out "\$125,000, or both" and inserting in lieu thereof "\$500,000, or both if such person is an individual, or shall be fined not more than \$2,000,000 if such person is other than an individual".

SEC. 617. FINE INCREASE AMENDMENT TO SECTION 1010(b)(3) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1010(b)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(3)) is amended in the first sentence by striking out "\$50,000, or both" and inserting in lieu thereof "\$250,000, or both if such person is an individual, or shall be fined not more than \$1,000,000 if such person is other than an individual".

SEC. 618. FINE INCREASE AMENDMENT TO SECTION 1011(2) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1011(2) of the Controlled Substances Import and Export Act (21 U.S.C. 961(2)) is amended by striking out "\$25,000 or both" and inserting in lieu thereof "\$100,000, or both if such person is an individual or a fine of \$500,000 if such person is other than an individual".

SEC. 619. SPECIAL TERM OF IMPRISONMENT FOR CERTAIN OFFENSES UNDER CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RESULTING IN DEATH OR SERIOUS BODILY INJURY.

(a) IN GENERAL.—The Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended by adding at the end the following new section:

"SPECIAL TERM OF IMPRISONMENT FOR CERTAIN OFFENSES RESULTING IN DEATH OR SERIOUS BODILY INJURY

"Sec. 1018. (a) In the case of an offense under paragraph (1) or (2) of section 1010(b) of this title, from which death or serious bodily injury results, the defendant shall be sentenced (in addition to any fine otherwise

applicable under such subsection) to imprisonment for any term of not less than 20 years, or to imprisonment for life.

"(b) As used in this section—

"(1) the term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) unconsciousness;

"(C) extreme physical pain;

"(D) protracted and obvious disfigurement; or

"(E) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

"(2) the term 'results' includes results from the use of a quantity of controlled substance involved in the offense.

"(c) Imposition or execution of a sentence of imprisonment under this section shall not be suspended, and probation shall not be granted with respect to such sentence. A person convicted under this section shall not be eligible for parole until the individual has served the minimum sentence required by this section."

(b) TECHNICAL AMENDMENT.—The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 1017 the following new item:

"Sec. 1018. Special term of imprisonment for certain offenses resulting in death or serious bodily injury."

PART II—CONTROLLED SUBSTANCE OFFENSES RELATING TO CHILDREN AND SCHOOLS; PRECURSOR AND ESSENTIAL CHEMICAL REVIEW

SEC. 621. CRIMINAL PENALTY FOR MANUFACTURE OF CONTROLLED SUBSTANCE IN OR NEAR SCHOOLS (INCLUDING COLLEGES).

(a) IN GENERAL.—Section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended—

(1) in subsection (a), by striking out "distributing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school" and inserting in lieu thereof "manufacturing or distributing a controlled substance in or on, or within 1,000 feet of, the real property comprising a school";

(2) in subsection (b), by striking out "distributing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school" and inserting in lieu thereof "manufacturing or distributing a controlled substance in or on, or within 1,000 feet of, the real property comprising a school"; and

(3) by adding at the end the following new subsection:

"(d) As used in this section, the term 'school' means a public or private elementary, vocational, or secondary school, or a public or private college, junior college, community college, or university."

(b) TECHNICAL AMENDMENT.—The section heading for section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended to read as follows:

"MANUFACTURE OR DISTRIBUTION IN OR NEAR SCHOOLS".

SEC. 622. USING CHILDREN TO MANUFACTURE OR DISTRIBUTE A CONTROLLED SUBSTANCE.

The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 405A the following new section:

"USING CHILDREN TO MANUFACTURE OR DISTRIBUTE

"Sec. 405B. (a) Any person at least 18 years of age who violates section 401(a)(1) by employing, using, persuading, inducing, enticing, or coercing another person less than 18 years of age to manufacture or distribute a controlled substance is punishable by a term of imprisonment, or a fine, or both, up to twice that otherwise authorized for that offense, and at least twice any special parole term otherwise authorized for that offense.

"(b) If the offense under this subparagraph is a second or subsequent offense, such offense is punishable by a term of imprisonment, or a fine, or both, up to three times that otherwise authorized for that offense, and at least three times any special parole term otherwise authorized for that offense.

"(c) In the case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted with respect to such sentence. An individual convicted under this section shall not be eligible for parole until the individual has served the minimum sentence required by such section."

SEC. 623. PRECURSOR AND ESSENTIAL CHEMICAL REVIEW.

(a) STUDY AND REPORT.—The Attorney General shall—

(1) conduct a study of the need for legislation, regulation, or alternative methods to control the diversion of legitimate precursor and essential chemicals to the illegal production of drugs of abuse; and

(2) report all findings of such study to Congress not later than the end of the 90th day after the date of enactment of this part.

(b) CONSIDERATIONS.—In conducting such study the Attorney General shall take into consideration that—

(1) clandestine manufacture continues to be a major source of narcotic and dangerous drugs on the illegal drug market;

(2) these drugs are produced using a variety of chemicals which are found in commercial channels and which are diverted to illegal uses;

(3) steps have been taken to deny drug traffickers access to key precursor chemicals, including that—

(A) P2P, a precursor chemical used in the production of amphetamines and methamphetamines was administratively controlled in schedule II of the Controlled Substances Act by the Drug Enforcement Administration;

(B) a variety of controls were placed on piperidine, the precursor for phencyclidine, by the Psychotropic Substance Act of 1978; and

(C) the Drug Enforcement Administration has maintained a voluntary system in cooperation with chemical industry to report suspicious purchases of precursors and essential chemicals; and

(4) despite the formal and voluntary systems that currently exist, clandestine production of synthetic narcotics and dangerous drugs continue to contribute to drug trafficking and abuse problems in the United States.

PART III—CONTROLLED SUBSTANCES TECHNICAL AMENDMENTS

SEC. 625. CLARIFICATION OF ISOMER INCLUSION.

The second and third sentences of section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)) are each amended by

striking out "the" after "the term 'isomer' means" and inserting in lieu thereof "any".

SEC. 626. MODIFICATION OF COCAINE DEFINITION FOR PURPOSES OF SCHEDULE II.

Subsection (a)(4) of schedule II of section 202(c) of the Controlled Substances Act (21 U.S.C. 812) is amended to read as follows:

"(4) Coca leaves (except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed); cocaine, its salts, optical and geometric isomers, and salts of isomers; and ecgonine, its derivatives, their salts, isomers, and salts of isomers."

SEC. 627. CORRECTION OF PUNCTUATION ERROR.

Section 403(a)(2) of the Controlled Substances Act (21 U.S.C. 843(a)(2)) is amended by striking out the period at the end and inserting a semicolon in lieu thereof.

SEC. 628. CORRECTION OF CLERICAL ERROR.

Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended by inserting "parole" after "(2) at least three times any special".

SEC. 629. CORRECTION OF ERRONEOUS SECTION CROSS REFERENCE.

Section 405A(c) of the Controlled Substances Act (21 U.S.C. 845a(c)) is amended by striking out "section 4202" and inserting "chapter 311" in lieu thereof.

SEC. 630. CORRECTION OF ERRONEOUS SUBSECTION CROSS REFERENCES.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended—

(1) in subsection (c) and in the second subsection (h), by striking out "subsection (o)" and inserting "subsection (n)" in lieu thereof;

(2) in subsection (f) by striking out "subsection (f)" and inserting "subsection (e)" in lieu thereof;

(3) in subsection (i)(1), by striking out "this chapter" and inserting "this title" in lieu thereof; and

(4) by redesignating the second subsection (h) as subsection (k).

SEC. 631. AUTHORITY OF ATTORNEY GENERAL TO ENTER INTO CONTRACTS WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES AND TO DEPUTIZE STATE AND LOCAL LAW ENFORCEMENT OFFICERS FOR CONTROLLED SUBSTANCES ENFORCEMENT.

(a) CONTRACT AUTHORITY.—Section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(7) notwithstanding any other provision of law, enter into contractual agreements with State and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this title."

(b) AUTHORITY TO DEPUTIZE.—Section 508 of the Controlled Substances Act (21 U.S.C. 878) is amended—

(1) by inserting "(a)" before "Any officer or employee";

(2) by inserting after "Drug Enforcement Administration" the following: "or (with respect to offenses under this title or title III) any State or local law enforcement officer"; and

(3) by adding at the end thereof the following new subsection:

"(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and

shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5, United States Code."

SEC. 632. CORRECTION OF CLERICAL ERROR.

Section 1008(e) of the Controlled Substances Import and Export Act (21 U.S.C. 958(e)) is amended by striking out "section" the first place it appears and inserting "sections" in lieu thereof.

SEC. 633. ELIMINATION OF ERRONEOUS CROSS REFERENCE.

Section 1010(b)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(3)) is amended by striking out "except as provided in paragraph (4)".

SEC. 634. TECHNICAL AMENDMENTS TO TABLE OF CONTENTS OF THE COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970.

The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended—

(1) by inserting after the item relating to section 405 the following new items:

"Sec. 405A. Manufacture or distribution in or near schools.

"Sec. 405B. Using children to manufacture or distribute.";

and

(2) by adding at the end the following new items:

"Sec. 415. Alternative fine.

"Sec. 416. Special term of imprisonment for certain offenses resulting in death or serious bodily injury."

SEC. 635. AMENDMENT TO SECTION 511 OF THE CONTROLLED SUBSTANCES ACT.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended—

(1) so that paragraph (1) reads as follows:

"(1) retain the property for official use or transfer the custody or ownership of any forfeited property to any Federal agency pursuant to section 616 of the Tariff Act of 1930";

(2) by inserting after paragraph (1) the following new paragraph:

"(2) transfer the custody or ownership of any forfeited property or proceeds to any State or local agency pursuant to section 616 of the Tariff Act of 1930"; and

(3) by renumbering the following paragraphs accordingly.

SEC. 636. AMENDMENT TO SECTION 524 OF TITLE 28, UNITED STATES CODE.

Section 524(c)(4) of title 28, United States Code, is amended by striking out "remaining after the payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof "except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))".

SEC. 637. AMENDMENT TO SECTION 5316 OF TITLE 31, UNITED STATES CODE.

Section 5316(a)(2) of title 31, United States Code, is amended by striking out "\$5,000" and inserting in lieu thereof "\$10,000".

SEC. 638. CLARIFICATION OF INTENT OF CERTAIN AMENDMENTS.

The amendments made by sections 224(a) and 235(a)(1) of the Comprehensive Crime Control Act of 1984 are referenced to the law as it existed immediately before the enactment of the Comprehensive Crime Control Act of 1984 and are intended to be executed without regard to redesignations

made by and after that enactment. To the extent that a provision to which such an amendment is so referenced has been stricken out or repealed before the date such amendments would take effect, however, such amendments shall not take effect.

Subtitle D—White House Conference

SEC. 641. SHORT TITLE.

This subtitle may be cited as the "White House Conference on Drug Abuse and Control Act of 1986".

SEC. 642. FINDINGS.

The Congress finds that—

(1) the illicit production and trafficking of controlled substances abroad and the illicit importation of controlled substances into the United States is increasing each year;

(2) the social and economic cost in the United States of drug abuse, including increased health care costs, lost productivity, and related crime and violence, is estimated to be more than \$100,000,000,000 annually, and there is a direct relationship between drug abuse and criminal activity and street violence;

(3) the National Drug Enforcement Policy Board recently stated that drug abuse is a major health problem that damages our social institutions and threatens our most valuable human resource—our young people;

(4) controlled substances of all kinds are readily available on the streets of major cities in the United States, it is estimated that there are 500,000 heroin addicts, 4,000,000 regular cocaine users, and 20,000,000 regular marijuana users in the United States, and the amount of cocaine available for export to the United States increased by over 50 percent in 1984 and the number of cocaine-related deaths in the United States in 1984 increased by 77 percent;

(5) the President's Commission on Organized Crime, in its final report, stated that drug trafficking is the most serious organized crime problem in the world today and is the most widespread and lucrative organized crime activity in the United States, producing revenues exceeding \$110,000,000,000 annually, and that insofar as the violence and corruption associated with drug trafficking threatens the stability of friendly nations, our own national security is jeopardized;

(6) President Reagan has repeatedly emphasized the importance of the fight against drug abuse and has called drug abuse one of the gravest problems facing the nation;

(7) the International Narcotics Control Board and the United States Department of State have found that the illicit production, trafficking, and abuse of drugs is international in scope and affects almost every country, and that these activities undermine the economic and social order, spread violence and corruption, and jeopardize the very political stability of some countries;

(8) despite major strides toward achieving coordination of drug law enforcement among Federal agencies or between Federal efforts and State and local efforts total national control is still needed;

(9) the flow of drugs into the United States and increased domestic production and diversion place overwhelming burdens on Federal, State, and local police, prosecutors, courts, and correctional authorities, and represents a threat to the national security;

(10) elected officials and leaders in the fields of law enforcement, health, and edu-

cation are nearly unanimous in agreement that drug abuse can only be defeated by education, prevention, and other demand reduction efforts;

(11) demand reduction efforts need more resources, direction, and coordination, having received comparatively less support than have law enforcement and other supply reduction efforts; and

(12) in order to address these drug control and abuse issues in a coordinated manner and in a manner that responds to the crisis situation at hand, it is necessary to bring together, under sponsorship and with support at the highest level of government, experts in drug abuse issues, ordinary citizens, including those who have suffered the effects of drug abuse and who want to help end it, and officials from all levels of government and all three branches of Government, to make recommendations for development and implementation of a comprehensive national strategy for public and private action to eliminate drug abuse in America.

SEC. 643. AUTHORIZATION OF CONFERENCE.

The President shall call a White House Conference on Drug Abuse and Control (in this subtitle referred to as the "Conference"), in accordance with this subtitle, not later than 9 months after the date of the enactment of this subtitle in order to develop recommendations for further action to control the illicit production, trafficking, and distribution of controlled substances internationally and in the United States and to prevent and treat drug abuse.

SEC. 644. PURPOSES OF CONFERENCE.

(a) IN GENERAL.—The purposes of the Conference are—

(1) to increase public awareness of, and to focus attention on, various aspects of the problems of drug abuse and control (including issues of enforcement of controlled substances laws and of prevention, treatment, and rehabilitation of drug abusers);

(2) to pool information and experiences in order vigorously and directly to attack drug abuse at all levels—local, State, Federal, and international; and

(3) to assist in formulating a national strategy (encompassing international, Federal, State, and local activities) to control trafficking in controlled substances and to prevent and treat drug abuse.

(b) SPECIFIC CONSIDERATIONS.—The Conference shall specifically review—

(1) the impact of recently enacted laws (including the Comprehensive Crime Control Act of 1984 and the Balanced Budget and Emergency Deficit Reduction Act of 1985) on efforts to control trafficking in controlled substances and to prevent and treat drug abuse;

(2) the recommendations of the President's Commission on Organized Crime as they relate to drug abuse and control;

(3) the extent to which the sanctions in section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291) have been, or should be, used in encouraging foreign states to comply with their international responsibilities respecting controlled substances; and

(4) the circumstances contributing to the initiation of illicit drug usage, with particular emphasis on the onset of drug use by youth.

SEC. 645. CONFERENCE REPORT AND FOLLOW-UP ACTIONS.

(a) FINAL REPORT.—Not more than 6 months after the date on which the Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the

Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be available to the public.

(b) FOLLOW-UP ACTIONS.—The President shall report to the Congress annually, during the 3-year period following the submission of the final report of the Conference, on the status and implementation of the findings and recommendations of the Conference.

SEC. 646. ORGANIZATION OF CONFERENCE.

(a) PARTICIPATION OF APPROPRIATE CABINET OFFICERS AND OTHER OFFICIALS.—The President shall—

(1) ensure the active participation in the Conference of appropriate cabinet officers, and

(2) shall provide for the involvement in the Conference of—

(A) elected officials at the Federal, State, and local levels;

(B) persons from business and industry;

(C) individuals distinguished in medicine, law, sociology, education, and law enforcement; and

(D) private citizens who have first-hand experience with drug abuse.

(b) ASSISTANCE OF FEDERAL AGENCIES.—All Federal departments, agencies, and instrumentalities shall provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(c) NO PAYMENT OF INDIVIDUAL EXPENSES.—Each participant in the Conference shall be responsible for his or her expenses related to attending the Conference and shall not be reimbursed from funds appropriated to carry out this subtitle.

(d) DETAIL OF STAFF.—Appropriate cabinet officers may detail employees to work on the planning and administering of the Conference without regard to section 3341(b) of title 5, United States Code.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1987 to carry out this subtitle such sums as may be necessary.

(f) RESTRICTION ON EXPENDITURES AND CONTRACTING.—New spending authority or authority to enter contracts as provided in this subtitle shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

SEC. 647. DEFINITIONS.

In this subtitle:

(1) CONTROLLED SUBSTANCE.—The term "controlled substance" has the meaning given such term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(2) APPROPRIATE CABINET OFFICER.—The term "appropriate cabinet officers" means the Attorney General, the Secretary of State, the Secretary of Health and Human Services, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Transportation, the Secretary of Education, and such other cabinet officers as have responsibilities respecting controlled substances abuse and control (including combating illicit production, trafficking, or distribution of controlled substances).

(3) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, and American Samoa.

SEC. 648. EFFECTIVE DATE.

This subtitle shall become effective on October 1, 1986.

Subtitle E—Career Criminals

SEC. 651. SHORT TITLE.

This subtitle may be cited as the "Career Criminal Amendments Act of 1986".

SEC. 652. EXPANSION OF PREDICATE OFFENSES.

(a) IN GENERAL.—Section 924(e)(1) of title 18, United States Code, is amended by striking out "for robbery or burglary, or both," and inserting in lieu thereof "for a violent felony or a serious drug offense, or both,".

(b) DEFINITIONS.—Section 924(e)(2) of title 18, United States Code, is amended by striking out subparagraph (A) and all that follows through subparagraph (B) and inserting in lieu thereof the following:

"(A) the term 'serious drug offense' means—

"(i) an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.), for which a maximum term of imprisonment of ten years or more is prescribed by law; or

"(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law; and

"(B) the term 'violent felony' means any crime punishable by imprisonment for a term exceeding one year that—

"(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

"(ii) involves conduct that presents a serious potential risk of physical injury to another."

SEC. 653. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect November 15, 1986.

Subtitle F—Drug and Alcohol Dependent Offenders Treatment

SEC. 655. SHORT TITLE.

This subtitle may be cited as the "Drug and Alcohol Dependent Offenders Treatment Act of 1986".

SEC. 656. PERMANENT AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.

(a) IN GENERAL.—The section of title 18, United States Code, that is redesignated section 3672 by section 212(a) of the Comprehensive Crime Control Act of 1984 is amended by adding at the end thereof:

"He shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). This authority shall include the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol dependent person, addict, or drug dependent person by eliminating his dependence on alcohol or addicting drugs, or by controlling his dependence and his susceptibility to addiction. He may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"He shall pay for presentence studies and reports by qualified consultants and presentence examinations and reports by psychiatric or psychological examiners ordered by the court under subsection (b) or (c) of section 3552, except for studies conducted by the Bureau of Prisons."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on the date of the taking effect of such redesignation.

SEC. 657. INTERIM AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.

The second paragraph of section 4255 of title 18, United States Code, is amended to read as follows:

"The Director of the Administrative Office of the United States Courts shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). Such authority includes the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol dependent person, addict, or drug dependent person by eliminating that person's or addict's dependence on alcohol or addicting drugs, or by controlling that person's or addict's dependence and susceptibility to addiction. Such Director may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)."

SEC. 658. REAUTHORIZATION OF CONTRACT SERVICES.

Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 is amended—

(1) by striking out "and \$6,000,000" and inserting "\$6,500,000" in lieu thereof; and

(2) by striking out the two periods at the end and inserting in lieu thereof: "\$12,000,000 for the fiscal year ending September 30, 1987; \$14,000,000 for the fiscal year ending September 30, 1988; and \$16,000,000 for the fiscal year ending September 30, 1989."

Subtitle G—Drug Enforcement Enhancement

SEC. 661. SHORT TITLE.

This subtitle may be cited as the "Drug Enforcement Enhancement Act of 1986".

SEC. 662. AUTHORIZATION OF APPROPRIATIONS.

(a) **DRUG ENFORCEMENT ADMINISTRATION.**—There is authorized to be appropriated for fiscal year 1987 for the Department of Justice, in addition to any amounts appropriated before the date of the enactment of this subtitle for fiscal year 1987, \$60,000,000 for the Drug Enforcement Administration.

(b) **ASSISTANT UNITED STATES ATTORNEYS.**—There is authorized to be appropriated for fiscal year 1987 for the Department of Justice, in addition to any amounts appropriated before the date of the enactment of this subtitle for fiscal year 1987, \$31,000,000 for United States attorneys for assistant United States attorneys.

(c) **DRUG LAW ENFORCEMENT BY DEPARTMENT OF JUSTICE.**—There is authorized to be appropriated for fiscal year 1987 for the Department of Justice, in addition to any amounts appropriated before the date of the enactment of this subtitle for fiscal year 1987, \$167,000,000 of which—

(1) \$140,000,000 shall be made available for the construction of Federal penal and correctional institutions,

(2) \$20,000,000 shall be made available for United States marshals, and

(3) \$7,000,000 shall be made available for the Federal Prison System.

Funds appropriated under this subsection shall remain available until expended.

(d) **AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 1988 AND 1989.**—(1) In addition to any other amounts that may be authorized to be appropriated for fiscal year 1988 for the Department of Justice, there is authorized to be appropriated \$450,000,000 for fiscal year 1988 for the Department of Justice for the construction of Federal penal and correctional institutions.

(2) In addition to any other amounts that may be authorized to be appropriated for 1989 for the Department of Justice, there is authorized to be appropriated \$527,000,000 for fiscal year 1989 for the Department of Justice, of which—

(A) \$500,000,000 shall be made available for the construction of Federal penal and correctional institutions, and

(B) \$27,000,000 shall be made available for the Federal Prison System for salaries.

(3) Funds appropriated under paragraphs (1) and (2) shall remain available until expended.

SEC. 663. OFFICE OF JUSTICE ASSISTANCE DRUG GRANT PROGRAM.

(a) **ESTABLISHMENT OF PROGRAM.**—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712 et seq.) is amended—

(1) by redesignating part M as part N,

(2) by redesignating section 1301 as section 1401, and

(3) by inserting after part L the following new part:

"PART M—GRANTS FOR DRUG LAW ENFORCEMENT PROGRAMS

"FUNCTION OF DIRECTOR

"Sec. 1301. The Director shall provide funds to eligible States and units of local government pursuant to this part.

"DESCRIPTION OF DRUG LAW ENFORCEMENT FORMULA GRANT PROGRAM

"Sec. 1302. The Bureau is authorized to make grants under this part to States for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.).

"FEDERAL PORTION OF PROGRAM

"Sec. 1303. (a) The amount of any grant made under section 1302 of this title shall be equal to 50 per centum of the cost of programs and projects specified in the application of such grant, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 per centum of such cost.

"(b) The non-Federal portion of the cost of any program or project for which a grant is made under section 1302 of this title shall be in cash.

"ELIGIBILITY

"Sec. 1304. The Bureau is authorized to make grants under section 1302 of this title available to a State for the use of the State, and units of local government in the State, for enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.).

"APPLICATIONS

"Sec. 1305. No grant may be made by the Bureau to a State, or by a State to an eligible recipient, pursuant to this part unless the application for such grant sets forth programs and projects which meet the purpose specified in section 1302 of this title and identifies the State agency or unit of local government which will implement each such program or project. The application shall be amended if new programs are to be added to the application or if the programs contained in the original application are not implemented. The application shall include—

"(1) an assurance that following the first fiscal year covered by an application and each fiscal year thereafter, the applicant shall submit to the Bureau or to the State, as the case may be—

"(A) a performance report concerning the activities carried out pursuant to section 1302 of this title; and

"(B) an assessment by the applicant of the impact of those activities on the purposes of such section and the needs and objectives identified in the applicant's statement;

"(2) a certification that Federal funds made available under section 1302 of this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for drug law enforcement activities;

"(3) a certification that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for drug law enforcement by the recipients of grant funds;

"(4) an assurance that fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records as the Bureau shall prescribe shall be provided to assure fiscal control, proper management, and efficient disbursement of funds received under section 1302 of this title;

"(5) an assurance that the applicant shall maintain such data and information and submit such reports in such form, at such times, and containing such data and information as the Bureau may reasonably require to administer other provisions of this title;

"(6) a certification that its programs meet all the requirements of this section, that all the information contained in the application is correct, that there has been appropriate coordination with affected agencies, and that the applicant will comply with all provisions of this title and all other applicable Federal laws (such certification shall be made in a form acceptable to the Bureau and shall be executed by the chief executive or such other officer of the applicant qualified under regulations promulgated by the Bureau);

"(7) an assurance that the State will take into account the needs and requests of units of local government in the State and encourage local initiative in the development of programs which meet the purpose of section 1302;

"(8) an assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review

such application or amendment within the 60-day period beginning on the date such application or amendment is so submitted; and

"(9) an assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

"REVIEW OF APPLICATIONS

"SEC. 1306. (a) The Bureau shall provide financial assistance to each State applicant under section 1302 of this title to carry out the programs or projects submitted by such applicant upon determining that—

"(1) the application or amendment thereto is consistent with the requirements of this title; and

"(2) before the approval of the application and any amendment thereto the Bureau has made an affirmative finding in writing that the program or project has been reviewed in accordance with section 1305.

Each application or amendment made and submitted for approval to the Bureau pursuant to section 1305 of this title shall be deemed approved, in whole or in part, by the Bureau not later than sixty days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(b) Grant funds awarded under section 1302 of this title shall not be used for land acquisition or construction projects.

"(c) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this section without first affording the applicant reasonable notice and opportunity for reconsideration.

"ALLOCATION AND DISTRIBUTION OF FUNDS

"SEC. 1307. (a) Of the total amount appropriated for this part in any fiscal year, 65 per centum shall be set aside for grants under section 1302 of this title and allocated to States as follows:

"(1) \$250,000 shall be allocated to each of the participating States.

"(2) Of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the participating States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purpose specified in section 1302 of this title that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data

available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(d) If the Director determines, on the basis of information available to the Director during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under section 1302 of this title, or that a State chooses not to participate in the program established by this part, then such portion shall be awarded by the Director to urban, rural, and suburban units of local government or combinations thereof within such State, giving priority to those jurisdictions with greatest need.

"(e) Any funds not distributed under subsections (b) and (d) with respect to a State shall be reallocated under subsection (a), excluding such State and the population of such State.

"STATE OFFICE

"SEC. 1308. (a) The chief executive of each participating State shall designate a State office for purposes of—

"(1) preparing an application to obtain funds under section 1302 of this title; and

"(2) administering funds received under such section from the Bureau, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

"DESCRIPTION OF DRUG LAW ENFORCEMENT DISCRETIONARY GRANT PROGRAM

"SEC. 1309. The Administrator of the Drug Enforcement Administration (hereinafter in this part referred to as the 'Administrator') is authorized to make grants under this part to States and to units of local government for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.). The Administrator shall have final authority over all grants awarded by the Administrator under this part.

"PERCENTAGE OF APPROPRIATION FOR DISCRETIONARY PROGRAM

"SEC. 1310. (a) Of the total amount appropriated for this part in any fiscal year, 20 per centum shall be reserved and set aside for grants under section 1309 of this title in a special discretionary fund for use by the Administrator in carrying out such section. Grants made with funds reserved under this subsection may be made for amounts up to 100 per centum of the cost of the programs and projects contained in the approved application.

"(b)(1) Of the total amount appropriated to carry out this part, 15 per centum shall be reserved and set aside for grants under section 1309 in a special discretionary fund for use by the Administrator in carrying out such section. The amount of any grant made with funds reserved under this subsection shall be equal to 50 per centum of the cost of the programs and projects specified in the approved application.

"(2) In making grants under this subsection, the Administrator shall give consideration to the severity of the following drug

law enforcement problems in the jurisdictions applying for such grants:

"(A) the unlawful importation of controlled substances (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)));

"(B) the unlawful production and processing of such substances; and

"(C) the unlawful diversion, distribution, and sale of such substances.

"(3) In awarding grants under this subsection, the Administrator shall give priority to jurisdictions in which such grants will have the greatest national and regional impact on combating illegal trafficking in such substances.

"(4) An applicant may not receive a grant made with funds reserved under this subsection unless such applicant certifies that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available by such applicant for drug law enforcement.

"APPLICATION REQUIREMENTS

"SEC. 1311. (a) No grant may be made pursuant to section 1310 of this title unless an application has been submitted to the Administrator in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to section 1309 of this title; and

"(2) describes the services to be provided, performance goals, and the manner in which the program is to be carried out.

"(b) Each applicant for funds under section 1309 of this title shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administrator.

"LIMITATION ON USE OF DISCRETIONARY GRANT FUNDS

"SEC. 1312. Grant funds awarded under section 1309 of this title shall not be used for land acquisition or construction projects.

"ADMINISTRATIVE ASSISTANCE BY BUREAU

"SEC. 1313. The Bureau shall provide assistance to the Administrator in processing applications and administering grants authorized under section 1309 of this title."

(b) TECHNICAL AMENDMENTS.—(1) Subsections (a) and (b) of section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741) are each amended by striking out "part E" and inserting in lieu thereof "parts E and M".

(2) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is amended—

(A) by striking out "parts D and E" and inserting in lieu thereof "parts D, E, and M", and

(B) by striking out "part D" each place it appears and inserting in lieu thereof "parts D and M".

(3) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by inserting "or M" after "part D".

(4) Section 808 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789) is amended by inserting "or 1308, as the case may be," after "section 408".

(5) The table of contents of title I of the Omnibus Crime Control and Safe Streets

Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking out the items relating to part M and section 1301, and inserting in lieu thereof the following new items:

"Part M—Grants for Drug Programs"

- "Sec. 1301. Function of Director.
- "Sec. 1302. Description of drug law enforcement formula grant program.
- "Sec. 1303. Federal portion of program.
- "Sec. 1304. Eligibility.
- "Sec. 1305. Applications.
- "Sec. 1306. Review of applications.
- "Sec. 1307. Allocation and distribution of funds.
- "Sec. 1308. State office.
- "Sec. 1309. Description of drug law enforcement discretionary grant program.
- "Sec. 1310. Percentage of appropriation for discretionary program.
- "Sec. 1311. Application requirements.
- "Sec. 1312. Limitation on use of discretionary grant funds.
- "Sec. 1313. Administrative assistance by Bureau.

"Part N—Transition; Effective Date; Repealer"

- "Sec. 1401. Continuation of rules, authorities, and proceedings."

(c) **AUTHORIZATION OF APPROPRIATIONS.**—Section 1001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

- (1) in subsection (a)—
 - (A) in paragraph (3) by striking out "and L" and inserting in lieu thereof "L, and M";
 - (B) by redesignating paragraph (6) as paragraph (7); and
 - (C) by inserting after paragraph (5) the following new paragraph:

"(6) There are authorized to be appropriated \$100,000,000 for fiscal year 1987 and \$200,000,000 for fiscal year 1988, to carry out the programs under part M of this title. Funds appropriated under this paragraph shall remain available until expended.", and
- (2) in subsection (b) by striking out "and E" and inserting in lieu thereof "E, and M".

SEC. 664. DEPARTMENT OF JUSTICE DRUG ASSET FORFEITURE FUND.

Section 524 of title 28, United States Code, is amended in subsection (c)—

- (1) in paragraph (1)—
 - (A) in subparagraph (A) by inserting "(i)" after "(A)";
 - (B) by adding at the end of subparagraph (A) the following new clause:

"(ii) the payment pursuant to regulations promulgated by the Attorney General of necessary program-related expenses which may include payment necessary for expenses involving in the purchase or lease of automatic data processing equipment, training, printing, contracting for services related to the processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances"; and
 - (C) by amending subparagraph (E) to read as follows:

"(E) for equipping for law enforcement functions any vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, or the Immigration and Naturalization Service; and"; and
 - (2) in paragraph (8)—
 - (A) by striking out "1984, 1985, 1986, and 1987" and inserting in lieu thereof "1986, 1987, and 1988"; and
 - (B) by striking out "\$5,000,000" and inserting in lieu thereof "\$10,000,000".

TITLE VII—COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

SEC. 701. SHORT TITLE.

This title may be cited as the "Transportation Drug Act of 1986".

SEC. 702. STATE ENFORCEMENT OF LAWS RELATING TO AIRCRAFT REGISTRATION.

(a) **IN GENERAL.**—Section 902(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(b)) is amended by adding at the end the following new paragraph:

"(3) Nothing in this subsection or in any other provision of this Act shall preclude a State from establishing criminal penalties, including providing for forfeiture or seizure of aircraft, for a person who—

"(A) knowingly and willfully forges, counterfeits, alters, or falsely makes an aircraft registration certificate,

"(B) knowingly sells, uses, attempts to use, or possesses with intent to use a fraudulent aircraft registration certificate,

"(C) knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft, or

"(D) obtains an aircraft registration certificate from the Administrator by knowingly and willfully falsifying, concealing, or covering up a material fact, or making a false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry."

(b) **INSPECTION.**—Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401) is amended by adding at the end the following new subsection:

"INSPECTION BY LAW ENFORCEMENT OFFICERS"

"(g) The operator of an aircraft shall make available for inspection an aircraft's certificate or registration upon request by a Federal, State, or local law enforcement officer."

(c) **CONFORMING AMENDMENT.**—That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 501. Registration of aircraft nationality."

is amended by adding at the end the following:

"(g) Inspection by law enforcement officers."

SEC. 703. CRIMINAL PENALTIES.

(a) **IN GENERAL.**—Subsection (q) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(q)) is amended to read as follows:

"VIOLATIONS IN CONNECTION WITH TRANSPORTATION OF CONTROLLED SUBSTANCES"

"(q)(1) It shall be unlawful, in connection with transportation described in paragraph (2) and with knowledge of such transportation, for any person—

"(A) who is the owner of an aircraft eligible for registration under section 501, to knowingly and willfully operate, attempt to operate, or permit any other person to operate such aircraft if the aircraft is not registered under section 501 or the certificate of registration of the aircraft is suspended or revoked;

"(B) to operate or attempt to operate an aircraft eligible for registration under section 501 knowing either that such aircraft is not registered under section 501 or that the certificate of registration is suspended or revoked;

"(C) to knowingly and willfully serve, or attempt to serve, in any capacity as an airman without a valid airman certificate authorizing him to serve in such a capacity;

"(D) to knowingly and willfully employ for service or utilize any airman who does not possess a valid airman certificate authorizing him to serve in such capacity;

"(E) to knowingly and willfully operate an aircraft in violation of any rule, regulation, or requirement issued by the Administrator with respect to the display of navigation or anticollision lights; or

"(F) to knowingly operate an aircraft with a fuel tank or fuel system that has been installed or modified on the aircraft, unless such tank or system and the installation or modification of such tank or system is in accordance with all applicable rules, regulations, and requirements of the Administrator.

"(2) The transportation referred to in paragraph (1) is the transportation by aircraft of any controlled substance where such transportation is punishable by death or imprisonment for a term exceeding one year under a State or Federal law or is provided in connection with any act that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

"(3) A person violating this subsection shall be subject to a fine not exceeding \$25,000, or imprisonment not exceeding 5 years, or both.

"(4) A person who, in connection with transportation described in paragraph (2), operates an aircraft on which a fuel tank or fuel system has been installed or modified and does not carry aboard the aircraft any certificate required to be issued by the Administrator for such installation or modification shall be presumed to have violated subparagraph (F) of paragraph (1).

"(5) In the case of a violation of subparagraph (F) of paragraph (1), the fuel tank or fuel system and the aircraft involved shall be subject to seizure and forfeiture. The provisions of law relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(B) the disposition of such property or the proceeds from the sale thereof;

"(C) the remission or mitigation of such forfeitures; and

"(D) the compromise of claims and the award of compensation to informers in respect of such forfeitures;

shall apply to seizures and forfeitures under this paragraph. The Secretary may authorize such officers and agents as are necessary to carry out seizures and forfeitures under this paragraph, and such officers and agents shall have the powers and duties given to customs officers with respect to the seizure and forfeiture of property under the customs laws.

"(6) For purposes of this subsection, the term 'controlled substance' has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))."

(b) **CONFORMING AMENDMENT.**—That portion of the table of contents of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties." is amended by striking the item relating to subsection (q) and inserting

"(q) Violations in connection with transportation of controlled substances."

SEC. 704. DRUGS AND HIGHWAY SAFETY.

(a) **STUDY.**—The Secretary of Transportation shall conduct a study to determine the relationship between the usage of controlled substances and highway safety. Such study shall include a simulation of driving conditions, emergency situations, and driver performance under various drug and dosage conditions. Such study shall determine the incidence of controlled substance usage in highway accidents resulting in fatalities and the dosage levels for controlled substances which are most likely to result in impairment of driver performance.

(b) **REPORT.**—Not later than one year after the date of the enactment of this title, the Secretary of Transportation shall submit to Congress a report on the results of the study conducted under subsection (a).

TITLE VIII—COMMITTEE ON EDUCATION AND LABOR

SECTION 801. SHORT TITLE.

This title may be cited as the "Drug Abuse Education and Prevention Act of 1986".

SEC. 802. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—The Congress finds that drug abuse education and prevention programs are an essential component of a comprehensive Federal initiative to reduce the demand for and use of drugs throughout the Nation.

(b) **PURPOSE.**—It is the purpose of this title to establish programs of drug abuse education and prevention (coordinated with related community efforts and resources) through the provision of Federal financial assistance—

(1) to States for grants to local and intermediate educational agencies and consortia to establish, operate, and improve local programs of drug abuse prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

(2) to States for grants to and contracts with community-based organizations for programs of drug abuse prevention, early intervention, rehabilitation referral, and education for school dropouts and for school-age children after school hours and during summer vacations and other periods of non-attendance;

(3) to States for model, demonstration, training, and technical assistance activities;

(4) to institutions of higher education to establish, implement, and expand programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in colleges and universities; and

(5) to institutions of higher education in cooperation with State and local educational agencies for teacher training programs in drug abuse education and prevention.

Subtitle A—Establishment of Programs to Improve Drug Abuse Education and Prevention

SEC. 803. NATIONAL ADVISORY COUNCIL ON DRUG ABUSE EDUCATION AND PREVENTION.

(a) **ESTABLISHMENT OF NATIONAL ADVISORY COUNCIL.**—There is established a National Advisory Council on Drug Abuse Education and Prevention. The Advisory Council shall attract and focus national attention on drug-related problems, support and publicize programs of drug abuse education and prevention and advise the Secretary on programs and activities under this title.

(b) **MEMBERSHIP.**—The Advisory Council shall be composed of not less than 15 and not more than 25 individuals who are na-

tionally prominent and recognized as broadly representative of education groups, parent groups, student groups, community and philanthropic organizations, State and local elected officials, law enforcement officials, the entertainment industry, professional and amateur athletics, and business. Members of the Advisory Council shall be appointed by the President to 4 year terms. A vacancy in the Advisory Council shall be filled in the manner in which the original appointment was made.

(c) **ADMINISTRATION.**—The Advisory Council shall meet at the call of the President or the Secretary of Education. Members of the Council shall serve without pay, but may be reimbursed for actual and necessary travel and expenses incurred in the performance of their duties on the Council. Upon request of the Council, the head of any Federal agency is authorized to detail any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this title.

SEC. 804. ESTABLISHMENT.

The Secretary of Education shall establish Federal financial assistance programs for drug abuse education and prevention in elementary and secondary schools and institutions of higher education in accordance with this title.

SEC. 805. ALLOTMENT OF FUNDS.

(a) **RESERVED AMOUNTS FOR FEDERAL PROGRAMS.**—From the sums appropriated or otherwise made available to carry out this title for any fiscal year, the Secretary shall reserve—

(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs;

(2) 1 percent for programs for Indian children under section 833;

(3) 5 percent for national programs under section 831; and

(4) 10 percent for programs with institutions of higher education under section 832.

(b) ALLOTMENTS TO STATES.—

(1) From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to 0.5 percent of such remainder.

(2) The Secretary may reallocate any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within two years of allotment. Any such reallocation shall be made on the same basis as an allotment under paragraph (1).

(3) For purposes of this subsection, the term "State" means any of the fifty States, the District of Columbia, and Puerto Rico.

Subtitle B—State and Local Programs of Drug Abuse Education and Prevention

PART I—GENERAL

SEC. 806. ALLOCATION OF STATE FUNDS.

(a) **AMOUNTS RESERVED FOR STATE ACTIVITIES.**—From the payment made to a State for each fiscal year under section 805, the Governor shall reserve—

(1) 10 percent for State activities under section 811; and

(2) an additional amount, consistent with the number of school dropouts in the State, for the purposes of section 813.

(b) **GRANTS TO LOCAL AND INTERMEDIATE EDUCATIONAL AGENCIES AND CONSORTIA.**—From the remainder of the payment under section 805 not reserved under subsection (a), the State educational agency, in consultation with the State advisory council (described in section 812(a)(4)), shall make grants to local educational agencies, intermediate educational agencies, and consortia for activities under part III.

PART II—STATE PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION

SEC. 811. STATE ACTIVITIES.

(a) **USE OF FUNDS.**—Funds made available to a State under section 806(a)(1) may be used in accordance with an approved application for—

(1) the development, acquisition, dissemination, and implementation of drug abuse education and prevention model curricular materials for elementary and secondary schools throughout the State;

(2) demonstration projects of drug abuse education and prevention (including programs and activities during after school hours, summer vacations, and other periods of non-attendance);

(3) programs of inservice and preservice training in drug abuse education and prevention for teachers, counselors, other educational personnel, public service personnel (including law enforcement officials), and community leaders;

(4) technical assistance to help local and intermediate educational agencies and consortia of such agencies and community-based organizations—

(A) in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs, and

(B) in undertaking the coordination of such programs with related community efforts and resources;

(5) other drug abuse education and prevention activities, consistent with the purposes of this title; and

(6) State administrative costs.

(b) **LIMITATION.**—Not more than 5 percent of the funds available to a State under section 806(a)(1) may be used for administrative costs in carrying out the State's responsibilities under this part.

SEC. 812. STATE APPLICATIONS.

(a) **REQUIREMENTS.**—In order to receive a payment under section 805 for any fiscal year a State shall submit to the Secretary for approval an application which—

(1) sets forth a comprehensive Statewide plan for programs under this subtitle which includes the criteria and priorities for award of grants and contracts by the State under this subtitle;

(2) contains an estimate of the cost for the establishment and operation of such programs;

(3) designates the State agency or agencies responsible for the administration and supervision of programs assisted under this subtitle;

(4) provides for a State advisory council on drug abuse education and prevention, appointed by the Governor and determined to be broadly representative of the general public, which shall include the chief State school officer and persons representative of—

(A) parents of elementary and secondary schoolchildren,

(B) teachers and counselors,

(C) officers of State and local government,

(D) medical and mental health professionals.

- (E) social service workers,
- (F) the law enforcement community, and
- (G) community-based organizations,

to advise the Governor and other appropriate State agencies on State programs, the allocation of funds to local and intermediate educational agencies and consortia, and the planning, development, support, implementation, and evaluation of State-assisted programs under this title;

(5) provides assurances that the State will provide financial assistance under this subtitle only to local educational agencies, intermediate educational agencies, and consortia which establish and implement mandatory drug abuse education and prevention programs in elementary and secondary schools;

(6) provides assurances that the State will ensure an equitable distribution throughout the State of funds available under this subtitle;

(7) describes the manner in which the State will coordinate its efforts under this subtitle with appropriate Federal, State, and local law enforcement officials and with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

(8) provides that the Federal funds made available under this title shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the recipient for the purposes described in this title, and in no case supplant such funds;

(9) provides for an annual evaluation of the effectiveness of programs in the State assisted under this title;

(10) provides that the State will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation;

(11) contains assurances that there is compliance with the specific requirements of this title, including the Federal share limitations of section 842(c); and

(12) includes such other information and assurances as the Secretary reasonably determines to be necessary.

(b) **PERIOD OF APPLICATION.**—An application under this section shall be for a period not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application.

SEC. 813. PROGRAMS FOR SCHOOL DROPOUTS AND SCHOOL-AGE CHILDREN DURING AFTER SCHOOL HOURS AND SUMMER VACATIONS.

From the amounts reserved under section 806(a)(2), the Governor of each State shall make grants to and enter into contracts with community-based organizations of demonstrated performance for drug abuse education and prevention programs for school dropouts and programs for school-age children after school hours and during the summer vacation and other periods of non-attendance. Any such grant or contract shall be subject to the applicable provisions of section 822.

PART III—LOCAL PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION

SEC. 821. LOCAL DESIGN OF PROGRAMS.

(a) **USE OF FUNDS.**—Funds made available to a local or intermediate educational agency or consortium under section 806(b) may be used in accordance with an approved application for—

(1) the development, acquisition, and implementation of drug abuse education and

prevention curricula for elementary and secondary schools;

(2) school-based programs of drug abuse prevention and early intervention (other than treatment);

(3) drug abuse education programs, including programs for parents and other family members;

(4) drug abuse prevention counseling programs for students and parents, including professional and peer counselors and involving the participation (where appropriate) of parent or other adult counselors and reformed abusers;

(5) programs of drug abuse treatment and rehabilitation referral;

(6) programs of inservice and preservice training in drug abuse education and prevention for teachers, counselors, other educational personnel, public service personnel (including law enforcement officials), and community leaders;

(7) other drug abuse education and prevention activities, consistent with the purposes of this subtitle; and

(8) administrative costs.

(b) **LIMITATION.**—Not more than 5 percent of any grant from funds available under section 806(b) may be used for administrative costs in carrying out programs under this part.

SEC. 822. LOCAL APPLICATIONS.

(a) **REQUIREMENTS.**—In order to be eligible to receive a grant under section 806(b) for any fiscal year, a local educational agency, intermediate educational agency, or consortium shall submit an application to the State educational agency for approval. Such application shall—

(1) set forth a comprehensive plan for programs of the applicant under this part;

(2) contain an estimate of the cost for the establishment and operation of such programs;

(3) as appropriate, establish or designate a local or regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-based organizations, and other groups with interest and expertise in the field of drug abuse;

(4) describe the manner in which the applicant will establish, implement, or augment mandatory age-appropriate, developmentally-based, drug abuse education and prevention programs in elementary and secondary schools from the early elementary level through grade 12, and provide assurances that the applicant enforces related rules and regulations of student conduct;

(5) describe the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

(6) provide assurances that the applicant will coordinate its efforts with Federal, State, and local law enforcement officials;

(7) provide assurances that the Federal funds made available under this title shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this title, and in no case supplant such funds;

(8) provide assurances of compliance with the provisions of this title, including the Federal share limitations of section 842(c);

(9) agree to keep such records and provide such information to the State educational agency as reasonably may be required for

fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this title; and

(10) include such other information and assurances as the State educational agency reasonably determines to be necessary.

(b) **THREE-YEAR APPLICATION.**—An application under this section shall be for a period not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application.

Subtitle C—Federal Programs of Drug Abuse Education and Prevention

SEC. 831. NATIONAL PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION.

(a) **NATIONAL PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION.**—From sums reserved by the Secretary under section 805(a)(3) the Secretary shall carry out the purposes of this section.

(b) **NATIONAL EDUCATION PROGRAM.**—The Secretary of Education in conjunction with the Secretary of Health and Human Services shall establish a national education and prevention program on drug abuse. The Secretary shall coordinate such drug abuse education and prevention program with other appropriate Federal programs related to drug abuse. The Secretary shall—

(1) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 507 of the Public Health Service Act (as added by section 905 of this Act);

(2) provide technical assistance to State, local, and intermediate educational agencies and consortia in the selection and implementation of drug abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies; and

(3) identify research and development priorities with regard to school-based drug abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4.

(c) **NATIONAL STUDY OF DRUG ABUSE EDUCATION AND PREVENTION.**—The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, a study of the nature and effectiveness of existing Federal, State, and local programs of drug abuse education and prevention and shall submit a report of the findings of such study to the President and to the appropriate committees of the Congress not later than one year after the date of the enactment of this title.

SEC. 832. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

(a) **USES OF FUNDS.**—

(1) From sums reserved by the Secretary under section 805(a)(4) for the purposes of this section, the Secretary shall make grants to or enter into contracts with institutions of higher education for drug abuse education and prevention programs under this section.

(2) The Secretary shall make financial assistance available on a competitive basis to institutions of higher education which apply under this section. An institution of higher education which desires to receive a grant or enter into a contract under this section shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such informa-

tion as the Secretary may reasonably require.

(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to colleges and universities of limited enrollment.

(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (d).

(b) TRAINING.—Training grants shall be available for—

(1) preservice and inservice training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

(2) summer institutes and workshops in instruction in the field of drug abuse education and prevention;

(3) research and demonstration programs for teacher training and retraining in drug abuse education and prevention;

(4) training programs for law enforcement officials, community leaders, parents, and government officials.

(c) CURRICULA DEVELOPMENT PROGRAMS.—Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula. In the award of grants under this subsection, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research into drug abuse education and prevention programs.

(d) STUDENT PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION.—Grants shall be available under this subsection to develop, implement, operate, and improve programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in institutions of higher education.

SEC. 833. PROGRAMS FOR INDIAN CHILDREN.

(a) PROGRAMS UNDER THIS TITLE.—

(1) From the funds reserved pursuant to section 805(a)(2), the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection.

(2) The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title.

(3) The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this

title (particularly programs for Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

(4) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this subtitle and conducted in accordance with a tribal action plan in accordance with section 1106.

(b) PROGRAMS FOR INDIAN CHILDREN UNDER OTHER LAWS.—

(1) Section 304 of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241c) is amended by—

(A) striking out "and" at the end of paragraph (1);

(B) striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) adding at the end the following new paragraph:

"(3) the training of counselors at schools eligible for funding under this title in counseling techniques relevant to the treatment of alcohol and substance abuse."

(2) Section 423 of the Indian Education Act (20 U.S.C. 3385b) is amended—

(A) in subsection (a), by inserting "clinical psychology," after "medicine,"; and

(B) by adding at the end of the section the following new subsection:

"(e) Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education."

(3) Section 1121 of the Education Amendments of 1978 is amended by adding at the end the following new subsection:

"(i)(1) All schools funded by the Bureau of Indian Affairs shall include within their curriculum a program of instruction relating to alcohol and substance abuse prevention and treatment. The Assistant Secretary shall provide the technical assistance necessary to develop and implement such a program for students in kindergarten and grades 1 through 12, at the request of—

"(A) any Bureau of Indian Affairs school (subject to the approval of the school board of such school); or

"(B) any school board of a school operating under a contract entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(2) In schools operated directly by the Bureau of Indian Affairs, the Secretary shall, not later than 120 days after the date of the enactment of this subsection, provide for—

"(A) accurate reporting of all incidents relating to alcohol and substance abuse; and

"(B) individual student crisis intervention.

"(3) The programs requested under paragraph (1) shall be developed in consultation with the Indian tribe that is to be served by such program and health personnel in the local community of such tribe.

"(4) Schools requesting program assistance under this subsection are encouraged to involve family units and, where appropriate, tribal elders and Native healers in such instructions."

(4) Section 1129 of the Education Amendments of 1978 is amended by adding at the end the following new subsection:

"(e)(1) A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary of Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

"(2) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (25 U.S.C. 452 et seq.) and the Indian Education Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

"(3) The Assistant Secretary of Indian Affairs, acting through the Director of the Office of Indian Education Programs, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program."

Subtitle D—General Provisions

SEC. 811. DEFINITIONS.

(a) GENERAL PROVISION.—Except as otherwise provided, the terms used in this title shall have the meaning provided under section 595 of the Education Consolidation and Improvement Act of 1981.

(b) OTHER DEFINITIONS.—For the purposes of this title, the following terms have the following meanings:

(1) The term "drug abuse education and prevention" means prevention, early intervention, rehabilitation referral, and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances, as determined by the Secretary in consultation with the Secretary of Health and Human Services.

(2) The term "Secretary" means the Secretary of Education.

(3) The term "school-age population" means the population aged five through eighteen, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

(4) The term "school dropout" means an individual aged five through eighteen who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(5) The term "State" means a State, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

(6) The terms "institution of higher education", "secondary school", and "nonprofit" have the meanings provided in section 1001 of the Elementary and Secondary Education Act of 1965 in effect prior to October 1, 1981.

(7) The term "consortium" means a consortium of local educational agencies or local educational agencies and an intermediate educational agency.

(8) The term "community-based organization" means a private nonprofit organization which is representative of a community or significant segments of a community and

which provides educational or related services to individuals in the community.

SEC. 842. FUNCTIONS OF THE SECRETARY OF EDUCATION.

(a) ADMINISTRATION.—The Secretary shall be responsible for the administration of the programs authorized by this title.

(b) APPLICABILITY OF GENERAL EDUCATION PROVISIONS ACT.—Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this title.

(c) PAYMENTS; FEDERAL SHARE.—

(1) For any fiscal year for which a State has an approved application, the Secretary shall pay from the allotment for that State under section 805 the Federal share of the costs of carrying out the State and local programs under such application.

(2) The Federal share of the costs for State and local programs assisted under subtitle B shall be 100 percent for the first year and 75 percent for the second and any subsequent year of assistance. The non-Federal share of the costs of programs, services, and activities under subtitle B may be public or private assistance and contributions, in cash or in kind, fairly valued.

(3) The Secretary may waive the non-Federal share requirement under this section upon making a determination that the local applicant serves a distressed area and is unable to meet such requirement or that the waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources.

SEC. 843. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS.

(a) PARTICIPATION OF CHILDREN.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under subtitle B who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure equitable participation of such children in the purposes and benefits of this title.

(b) PARTICIPATION OF TEACHERS.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under subtitle B who are enrolled in private nonprofit elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this title.

(c) WAIVER.—If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Sec-

retary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 557(b) of the Education Consolidation and Improvement Act of 1981.

SEC. 844. STUDY OF DRUG ABUSE AT THE WORKPLACE.

(a) STUDY BY SECRETARY OF LABOR.—The Secretary of Labor shall conduct a study concerning the incidence, severity, and impact of drug abuse at the workplace. The Secretary shall investigate the availability and extent of counseling and rehabilitation services and other employer programs of prevention and assistance. Not later than two years after the date of the enactment of this title, the Secretary of Labor shall submit a report of the findings of such study to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(b) SPECIFIC AUTHORIZATION OF APPROPRIATIONS.—In addition to any other sums authorized to be appropriated under this title, there are authorized to be appropriated \$3,000,000 for fiscal year 1987 to enable the Secretary of Labor to carry out the purposes of this section.

SEC. 845. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$350,000,000 for each of the fiscal years 1987, 1988, and 1989 to carry out the purposes of this title.

(b) AVAILABILITY OF APPROPRIATIONS ON SCHOOL-YEAR BASIS.—Appropriations for any fiscal year for payments made under this title in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

(c) AVAILABILITY OF APPROPRIATIONS.—Funds appropriated for any fiscal year under this title shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

(d) OBLIGATIONAL AUTHORITY.—Notwithstanding any other provision of this title, no authority to enter into contracts or financial assistance agreements under this title shall be effective except to such extent or in such amount as are provided in advance in appropriation Acts.

SEC. 846. EFFECTIVE DATE.

This title shall take effect October 1, 1986.

TITLE IX—COMMITTEE ON ENERGY AND COMMERCE

SEC. 901. SHORT TITLE.

This title may be cited as the "Drug Abuse Prevention and Treatment Act of 1986".

Subtitle A—Financial Assistance to States and Communities

SEC. 902. ALLOTMENTS TO STATES.

Title XIX of the Public Health Service Act is amended by adding at the end the following:

"PART D—EMERGENCY SUBSTANCE ABUSE TREATMENT AND PREVENTION

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1935. For the purpose of the Agency for Substance Abuse Prevention and for allotments under sections 1937 and 1938,

there is authorized to be appropriated \$180,000,000 for fiscal year 1987.

"AGENCY FOR SUBSTANCE ABUSE PREVENTION

"SEC. 1936. Of the funds appropriated under section 1935, \$30,000,000 shall be made available for the Agency for Substance Abuse Prevention established under section 507.

"ALLOTMENTS FOR TREATMENT SERVICES FOR DRUG ABUSE

"SEC. 1937. (a) From two thirds of the amount appropriated under section 1935 and available for allotments, the Secretary shall allot to each State an amount determined by a formula prescribed by the Secretary which is based equally on the population of each State and on the population of each State weighted by its relative per capita income. Any amount paid to a State from its allotment and remaining unobligated at the end of fiscal year 1987 shall be returned to the Treasury.

"(b) Amounts paid to a State under its allotment under subsection (a) shall be used to provide treatment and rehabilitation services for persons suffering from drug abuse. In using its allotment under subsection (a), a State shall give priority, to the extent practicable, to treatment and rehabilitation services for individuals in the age group 15 to 24.

"(c) In order to receive an allotment under subsection (a) each State shall transmit an application to the Secretary. Each such application shall be in such form and transmitted by such date as the Secretary shall require. Each such application shall contain a plan for the use of amounts paid to the State under its allotment in accordance with this section and section 1939.

"ALLOTMENTS FOR COMMUNITY-BASED PREVENTION ACTIVITIES

"SEC. 1938. (a) From one-third of the amounts appropriated under section 1935 and available for allotments, the Secretary, acting through the Agency for Substance Abuse Prevention established under section 507, shall allot to each State an amount determined on the basis of the relative population of each State in the age group of 5 through 24.

"(b) Amounts paid to a State under its allotment under subsection (a) shall be used for—

"(1) the development by the State of a substance abuse prevention education program,

"(2) the development of community-based substance abuse prevention activities among school-aged children which will make the use of drugs unattractive to such children,

"(3) the development by the State of educational programs relating to the risks presented by alcohol and drug abuse to pregnant women and children, and

"(4) the development by the State of an education program relating to the risks of acquired immune deficiency syndrome among individuals who use drugs intravenously and relating to the transmittal of acquired immune deficiency syndrome from pregnant women to unborn children.

"(c) In order to receive an allotment under subsection (a) each State shall transmit an application to the Secretary. Each such application shall be in such form and transmitted by such date as the Secretary shall require. Each such application shall contain a plan for the use of amounts paid to the State under its allotment in accordance with this section and section 1939.

"GENERAL PROVISIONS"

"Sec. 1939. (a) A State may not use amounts paid to it under its allotment under section 1937 or 1938 to—

"(1) provide inpatient hospital services,

"(2) make cash payments to intended recipients of health services,

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment,

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds,

"(5) pay administrative costs, or

"(6) provide financial assistance to any entity other than a public or nonprofit private entity.

"(b) The provisions of part B which are not inconsistent with subsection (a) or sections 1937 or 1938 shall apply with respect to allotments made under sections 1937 and 1938."

Subtitle B—Agency for Substance Abuse Prevention; Study

SEC. 905. AGENCY FOR SUBSTANCE ABUSE PREVENTION.

Part A of title V of the Public Health Service Act is amended by adding at the end the following:

"AGENCY FOR SUBSTANCE ABUSE PREVENTION

"Sec. 507. (a) There is established in the Alcohol, Drug Abuse, and Mental Health Administration the Agency for Substance Abuse Prevention. The Agency shall be headed by a Director appointed by the Secretary from individuals with extensive experience or academic qualifications in the prevention of drug or alcohol abuse.

"(b) The Director of the Office shall—

"(1) sponsor regional workshops on the prevention of drug and alcohol abuse,

"(2) coordinate the findings of research sponsored by agencies of the Service on the prevention of drug and alcohol abuse,

"(3) develop effective drug and alcohol abuse prevention literature (including literature on the adverse effects of cocaine free base (known as 'crack')),

"(4) create public service announcements for radio and television broadcasting on the prevention of drug and alcohol abuse,

"(5) in cooperation with the Secretary of Education, assure the widespread dissemination of prevention materials among States, political subdivisions, and school systems,

"(6) support programs of clinical training of substance abuse counselors and other health professionals,

"(7) in cooperation with the Director of the Centers for Disease Control, develop educational materials to reduce the risks of acquired immune deficiency syndrome among intravenous drug abusers, and

"(8) administer the allotment programs under part D of title XIX.

"(c) The Secretary, acting through the Director of the Office, shall establish a clearinghouse for alcohol and drug abuse information to assure the widespread dissemination of such information to States, political subdivisions, school systems, and the general public. The clearinghouse shall—

"(1) disseminate of publications by the National Institute of Alcohol Abuse and Alcoholism, the National Institute of Drug Abuse, and the Secretary of Education concerning alcohol and drug abuse,

"(2) disseminate of accurate information concerning the health effects of alcohol and drug abuse,

"(3) collect and disseminate information concerning successful drug abuse education and prevention curricula, and

"(4) collect and disseminate information on effective and ineffective school-based drug abuse education and prevention programs.

"(d)(1) There is established an advisory board to advise the Director of the Office in carrying out subsections (b) and (c). The Board shall—

"(A) advise the Director and the White House Conference on Drug Abuse and Drug Trafficking Control and other governmental agencies to promote an awareness among the general public about the problems of drug abuse and the need to prevent drug abuse among young people,

"(B) advise the Director with respect to establishing priorities in conducting an informational program aimed at preventing drug abuse,

"(C) advise the Director on the most effective means of communicating to the public the problems associated with drug abuse and of providing information that will contribute towards the prevention of drug abuse,

"(D) promote an awareness among the media throughout the country about problems relating to drug abuse,

"(E) encourage media outlets throughout the country to provide information, including public service announcements, aimed at assisting in the prevention of drug abuse,

"(F) advise the Director and media entities in the preparation and production of material, including public service announcements, aimed at discouraging drug abuse by young people,

"(G) encourage private sector initiatives aimed at drug abuse prevention,

"(H) encourage local broadcasters, newspapers, cable systems, and other media outlets to work closely with their local community, including representatives of schools, business, and religious and parent groups, to devise effective means of disseminating information about the need to discourage drug abuse by young people, and

"(I) aid in coordinating the efforts of all Federal agencies to provide information to the public on the need for drug abuse prevention and on the problems related to drug abuse.

"(2) The advisory board shall be composed of 15 members appointed by the Secretary and shall include representatives from radio and television broadcasting, cable communications, media productions, the print media, and professional sports associations. A member of the advisory board shall receive no compensation by virtue of the member's appointment to the advisory board.

"(3) The Secretary shall provide the advisory board with such administrative support services as it may require to carry out paragraph (1).

"(4) The advisory board shall terminate upon the expiration of 3 years after the date of the enactment of this section unless the President extends it by Executive Order."

SEC. 906. COVERAGE STUDY.

The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to conduct a study of (1) the extent of the coverage of drug abuse treatment provided by private insurance, public programs, and other sources of payment for such treatment, and (2) the adequacy of such coverage in rehabilitating drug abusers. Not later than one year after the date of the en-

actment of this title the Secretary shall transmit to the Congress a report of the results of the study conducted under this section. The report shall include recommendations for the means of meeting identified needs.

Subtitle C—Advisory Commission on the Comprehensive Education of Intercollegiate Athletes

SEC. 910. ESTABLISHMENT.

There is established a commission to be known as the Advisory Commission on the Comprehensive Education of Intercollegiate Athletes (hereafter in this subtitle referred to as the "Commission").

SEC. 911. DUTIES OF COMMISSION.

The Commission shall investigate and advise Congress regarding issues related to athletic programs at colleges and universities in the United States, including—

(1) the use of drugs by athletes, examining in particular the role of colleges and universities in discouraging the illegal use of drugs by athletes, and

(2) the impact of television on athletics, examining in particular both the negative and positive effects on colleges and universities and their athletes of revenues received by televising athletic events,

(3) the balance between athletics and academics, examining in particular—

(A) the need for—

(i) establishing stricter eligibility and academic requirements for athletes, and

(ii) less frequent and fewer competitive events to allow for greater pursuit of academic goals by athletes, and

(B) the role of regulation and enforcement in the areas of athletic recruiting, financing, and scheduling, and

(4) the extent of the involvement of Federal and State government in intercollegiate athletics, including involvement in the form of taxation, grants, and student loans.

SEC. 912. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 17 members, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate within 30 days after the date of the enactment of this title in a manner that insures balanced geographic representation, as follows:

(1) 1 member who is the President of a college or university.

(2) 2 members who are college or university professors.

(3) 2 members who are college or university admissions officers.

(4) 1 member who is a college or university academic advisor.

(5) 1 member who is a former or current college or university coach.

(6) 1 member who is a former or current college or university athletic director.

(7) 1 member who is a high school principal, guidance counselor, or teacher with special knowledge of high school academics and athletics.

(8) 1 member who is a current student athlete at a college or university.

(9) 1 member who is associated with one of the major regional college accrediting associations.

(10) 1 member who is associated with the National Collegiate Athletic Association.

(11) 1 member who is a physician with special knowledge of sports medicine and drug abuse problems.

(12) 1 member who is a former or current member of the House of Representatives and 1 member who is a former or current member of the Senate.

(13) 1 member who is not associated with college and university academics or athletics.

(14) 1 member who is associated with the National Athletic Trainers Association.

Appointments may be made under this subsection without regard to section 5311(b) of title 5, United States Code.

(b) **TERMS.**—Members shall be appointed for the life of the Commission.

(c) **PAY.**—(1) Members of the Commission shall serve without pay.

(2) While away from their homes or regular place of business in the performance of services for the Commission, members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5 of the United States Code.

(d) **CHAIRMAN.**—(1) The member of the Commission who is a former or current member of the House of Representatives shall serve as Chairman of the Commission.

(2) The member of the Commission who is a former or current member of the Senate shall serve as Vice Chairman of the Commission.

SEC. 913. MEETINGS.

(a) **ORGANIZATIONAL MEETING.**—Not later than 30 days after all members have been appointed to the Commission, the Commission shall hold an organizational meeting to establish the rules and procedures under which it will carry out its responsibilities.

(b) **RULES AND PROCEDURES.**—The rules and procedures referred to in subsection (a) shall provide that—

(1) half of the total Commission membership shall constitute a quorum, and

(2) a majority of those voting at a properly called meeting shall be required to authorize any recommendation or other official action of the Commission.

SEC. 914. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) **STAFF.**—Subject to such rules as may be prescribed by the Commission and subsection (b), the Chairman may appoint and fix the pay of such personnel as the Chairman considers appropriate.

(b) **APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.**—The staff of the Commission shall—

(1) be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(c) **EXPERTS AND CONSULTANTS.**—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(d) **STAFF OF FEDERAL AGENCIES.**—Upon request of the Chairman, the head of any Federal agency shall detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under section 911.

SEC. 915. POWERS OF COMMISSION.

(a) **HEARINGS AND SESSIONS.**—(1) The Commission may, for the purpose of carrying out section 911, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) Hearings, meetings, and other sessions of the Commission may be closed to the public only by vote of the Commission.

(b) **OBTAINING OFFICIAL DATA.**—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out section 911. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(d) **ADMINISTRATIVE SUPPORT SERVICES.**—The head of any department or agency of the United States shall provide to the Commission such administrative support services as the Chairman may request.

(e) **OFFICE SPACE.**—The Administrator for General Services shall provide the Commission with appropriate office space, at no expense to the Commission, to enable it to carry out its responsibilities under section 911.

SEC. 916. REPORT.

The Commission shall transmit to the Congress not later than 18 months after the organizational meeting of the Commission is held under section 913 a report which shall contain a detailed statement of the findings and conclusions of the Commission as it considers appropriate.

SEC. 917. TERMINATION.

The Commission shall cease to exist 60 days after submitting its report under section 916.

SEC. 918. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal years beginning after fiscal year 1986 not to exceed \$650,000 to carry out this title.

Subtitle D—Alkyl Nitrites

SEC. 920. REGULATION OF ALKYL NITRITES BY THE FOOD AND DRUG ADMINISTRATION.

Alkyl nitrites and their isomers shall be treated as a drug for purposes of the Federal Food, Drug, and Cosmetic Act unless the alkyl nitrites or their isomers are not manufactured, processed, distributed, or sold for use by individuals.

TITLE X—COMMITTEE ON POST OFFICE AND CIVIL SERVICE

SEC. 1001. SHORT TITLE.

This title may be cited as the "Federal Employee Substance Abuse Education and Treatment Act of 1986".

SEC. 1002. PROGRAMS TO PROVIDE PREVENTION, TREATMENT, AND REHABILITATION SERVICES TO FEDERAL EMPLOYEES WITH RESPECT TO DRUG AND ALCOHOL ABUSE.

(a) **IN GENERAL.**—(1) Chapter 73 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—DRUG ABUSE AND ALCOHOL ABUSE AND ALCOHOLISM

"§ 7361. Drug abuse

"(a) The Office of Personnel Management shall be responsible for developing and maintaining, in cooperation with the President, with the Secretary of Health and Human Services (acting through the National Institute on Drug Abuse), and with other agencies, and in accordance with applicable provisions of this subpart, appropriate prevention, treatment, and rehabilitation programs and services for drug abuse among employees. Such agencies are encouraged to extend, to the extent feasible, these programs and services to the families of employees and to employees who have family members who are drug abusers. Such programs and services shall make optimal

use of existing governmental facilities, services, and skills.

"(b) Section 527 of the Public Health Service Act (relating to confidentiality of records), and any regulations prescribed thereunder, shall apply with respect to records under this section.

"(c) Each agency shall, with respect to any programs or services provided by such agency, submit such written reports as the Office may require in connection with any report required under section 7363.

"(d) For the purpose of this section, the term 'agency' means an Executive agency.

"§ 7362. Alcohol abuse and alcoholism

"(a) The Office of Personnel Management shall be responsible for developing and maintaining, in cooperation with the Secretary of Health and Human Services and with other agencies, and in accordance with applicable provisions of this subpart, appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcoholism among employees. Such agencies are encouraged to extend, to the extent feasible, these programs and services to the families of alcoholic employees and to employees who have family members who are alcoholics. Such programs and services shall make optimal use of existing governmental facilities, services, and skills.

"(b) Section 523 of the Public Health Service Act (relating to confidentiality of records), and any regulations prescribed thereunder, shall apply with respect to records under this section.

"(c) Each agency shall, with respect to any programs or services provided by such agency, submit such written reports as the Office may require in connection with any report required under section 7363.

"(d) For the purpose of this section, the term 'agency' means an Executive agency.

"§ 7363. Reports to Congress

"(a) The Office of Personnel Management shall, within 6 months after the date of the enactment of this section and annually thereafter, submit to each House of Congress a report containing the matter under subsection (b).

"(b) Each report under this section shall include—

"(1) a description of any programs or services provided under section 7361 or 7362, including the costs associated with each such program or service and the source and adequacy of any funding therefor;

"(2) information as to the levels of participation in the programs and services provided under sections 7361 and 7362, and the efficacy of such programs and services;

"(3) a description of the training and qualification requirements of the personnel providing the programs and services under sections 7361 and 7362;

"(4) a description of the training given to supervisory personnel in connection with recognizing the symptoms of drug or alcohol abuse and the procedures (including those relating to confidentiality) under which individuals are referred for treatment, rehabilitation, or other assistance;

"(5) recommendations for any legislation or administrative action; and

"(6) information relating to any related, separate activities under section 7904 of this title, and any other matter which the Office considers appropriate."

(2) The analysis for chapter 73 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—DRUG ABUSE AND ALCOHOL ABUSE AND ALCOHOLISM**"Sec.****"7361. Drug abuse.****"7362. Alcohol abuse and alcoholism.****"7363. Reports to Congress."**

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—Subsection (a) of sections 521 and 525 of the Public Health Service Act (42 U.S.C. 290dd-1(a) and 290ee-1(a)) is repealed, subsection (b)(1) of each such section is amended by striking out "similar", and subsections (b), (c), and (d) of each such section are redesignated as subsections (a), (b), and (c), respectively.

SEC. 1003. EDUCATIONAL PROGRAM FOR FEDERAL EMPLOYEES RELATING TO DRUG AND ALCOHOL ABUSE.

(a) **ESTABLISHMENT.**—The Director of the Office of Personnel Management shall, in consultation with the Secretary of Health and Human Services, establish a Government-wide education program, using seminars and such other methods as the Director considers appropriate, to carry out the purposes set forth in subsection (b).

(b) **PURPOSES.**—The program established under this section shall be designed so as to provide information to Federal employees with respect to—

(1) the short-term and long-term health hazards associated with alcohol abuse and drug abuse;

(2) the symptoms of alcohol abuse and drug abuse;

(3) the availability of any prevention, treatment, or rehabilitation programs or services relating to alcohol abuse or drug abuse, whether provided by the Federal Government or otherwise;

(4) confidentiality protections afforded in connection with any prevention, treatment, or rehabilitation programs or services;

(5) any penalties provided under law, rule, or regulation, and any administrative actions (permissive or mandatory), relating to the use of alcohol or drugs by a Federal employee or the failure to seek or receive appropriate treatment or rehabilitation services; and

(6) any other matter which the Director considers appropriate.

SEC. 1004. EMPLOYEE ASSISTANCE PROGRAMS RELATING TO DRUG ABUSE AND ALCOHOL ABUSE.

(a) **IN GENERAL.**—Chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"§ 7904. Employee assistance programs relating to drug abuse and alcohol abuse

"(a) The head of each Executive agency shall, in a manner consistent with guidelines under subsection (b) and applicable provisions of this subpart, establish appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and alcohol abuse for employees in or under such agency.

"(b) The Office of Personnel Management shall, after such consultations as the Office considers appropriate, prepare guidelines for programs and services under this section.

"(c) The Secretary of Health and Human Services, on request of the head of an Executive agency, shall review any program or service provided under this section and shall submit comments and recommendations to the head of the agency concerned."

(b) **CHAPTER ANALYSIS.**—The analysis for chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"7904. Employee assistance programs relating to drug abuse and alcohol abuse."

SEC. 1005. DEMONSTRATION PROJECT RELATING TO TREATMENT FOR DRUG ABUSE AND ALCOHOL ABUSE UNDER THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) **DEFINITIONS.**—For the purpose of this section—

(1) the term "enrollee" means an individual enrolled in a health benefits plan; and

(2) the terms "health benefits plan", "employee", "annuitant", "carrier", and "family member" each has the meaning given such term under chapter 89 of title 5, United States Code.

(b) **IN GENERAL.**—The Office of Personnel Management shall, during calendar years 1988, 1989, and 1990, conduct a demonstration project to provide a basis for determining the feasibility and desirability of including certain benefits relating to the treatment of drug abuse and alcohol abuse among the types of benefits generally provided for under chapter 89 of title 5, United States Code (relating to health insurance for Federal employees).

(c) **SCOPE OF THE PROJECT.**—(1) The demonstration project—

(A) shall involve—

(i) the service benefit plan under section 8903(1) of title 5, United States Code;

(ii) the indemnity benefit plan under section 8903(2) of title 5, United States Code;

(iii) the 2 employee organization plans under section 8903(3) of title 5, United States Code, with the largest number of enrollments, as determined by the Office; and

(iv) the carrier operating the 2 comprehensive medical plans under section 8903(4) of title 5, United States Code, with the largest number of enrollments, as determined by the Office; and

(B) shall cover a sufficient number of enrollees and family members to provide an adequate basis on which to make any determination referred to in subsection (b).

(2) The demonstration project shall—

(A) to the extent that it involves the plans under clauses (i) through (iii) of paragraph (1)(A), be conducted within at least 1, and not more than 4, standard metropolitan statistical areas, as determined by the Office; and

(B) to the extent that it involves the carrier referred to in clause (iv) of paragraph (1)(A), be conducted within the standard metropolitan statistical area which includes Portland, Oregon.

A standard metropolitan statistical area may not be selected for inclusion under subparagraph (A) unless such area is one within which not less than 10,000, and not more than 25,000, employees and annuitants reside.

(d) **BENEFITS.**—Under the demonstration project, any contract under chapter 89 of title 5, United States Code, between the Office and the carrier offering a plan described in subsection (c)(1)(A)—

(1) shall, to the extent that such contract relates to individuals covered by the demonstration project, include benefits relating to—

(A) inpatient detoxification;

(B) patient assessment;

(C) outpatient therapy, including, wherever appropriate, worksite-based evening and weekend treatment programs, individual therapy, and group therapy;

(D) inpatient therapy;

(E) follow-up patient counselling; and

(F) counselling for family members of the individual having the abuse problem; and

(2) may, to the extent that such contract relates to individuals covered by the demonstration project, include benefits for related support services, including child care or other dependent care.

(e) **CONSULTATION.**—The Office shall consult with appropriate representatives of carriers, labor organizations representing Government employees, and agency heads with regard to—

(1) the determinations required under subsection (c)(2)(A);

(2) any maximums, limitations, exclusions, or other terms or conditions relating to the benefits described in subsection (d); and

(3) any other matter relating to the design, conduct, or evaluation of the demonstration project which the Office considers appropriate.

(f) **COORDINATION WITH OTHER GOVERNMENT PROGRAMS.**—The Office shall coordinate the demonstration project with any activities carried out under—

(1) section 7904 of title 5, United States Code (as added by section 1003), relating to employee assistance programs offered by Executive agencies with respect to drug abuse and alcohol abuse;

(2) subchapter VI of chapter 73 of title 5, United States Code (as added by section 1001), relating to programs and services for drug abuse and alcohol abuse;

(3) section 1002, relating to an educational program for Federal employees with respect to drug abuse and alcohol abuse; and

(4) other related programs.

(g) **EVALUATION AND REPORTING REQUIREMENTS.**—(1) The Office shall by contract provide for the periodic evaluation of the demonstration project with respect to—

(A) cost and efficacy;

(B) effects on employee productivity; and

(C) the feasibility and desirability of offering the benefits provided under the demonstration project on a general basis under chapter 89 of title 5, United States Code.

(2)(A) The Office shall—

(i) not later than March 15, 1990, submit an interim report to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate on the demonstration project; and

(ii) not later than April 1, 1991, submit to each of the committees referred to in clause (i) a final report on the project.

(B) Each report submitted under subparagraph (A) shall include a copy of the most recent evaluation received by the Office under paragraph (1).

(h) **FUNDING.**—(1) Notwithstanding any other provision of law, individual contributions and Government contributions under section 8906 of title 5, United States Code, shall be determined as if the preceding provisions of this section had not been enacted.

(2) There is authorized to be appropriated such sums as may be necessary to carry out this section (including any additional administrative costs).

TITLE XI—COMMITTEE ON INTERIOR AND INSULAR AFFAIRS**Subtitle A—Indians and Alaska Natives****SEC. 1101. SHORT TITLE.**

This subtitle may be cited as the "Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986".

PART I—GENERAL PROVISIONS**SEC. 1102. FINDINGS.**

The Congress finds and declares that—

(1) the Federal Government has a historical relationship and unique legal and moral

responsibility to Indian tribes and their members.

(2) included in this responsibility is the treaty, statutory, and historical obligation to assist the Indian tribes in meeting the health and social needs of their members.

(3) alcoholism and alcohol and substance abuse is the most severe health and social problem facing Indian tribes and people today and nothing is more costly to Indian people than the consequences of alcohol and substance abuse measured in physical, mental, social, and economic terms.

(4) alcohol and substance abuse is the leading generic risk factor among Indians and Indians die from alcoholism at over 4 times the age-adjusted rates for the United States population and alcohol and substance misuse results in a rate of years of potential life lost nearly 5 times that of the United States.

(5) 4 of the top 10 causes of death among Indians are alcohol and drug related injuries (18 percent of all deaths), chronic liver disease and cirrhosis (5 percent), suicide (3 percent), and homicide (3 percent).

(6) primarily because deaths from unintentional injuries and violence occur disproportionately among young people, the age-specific death rate for Indians is approximately double the United States rate for the 15 to 45 age group.

(7) Indians between the ages of 15 and 24 years of age are more than 2 times as likely to commit suicide as the general population and approximately 80 percent of those suicides are alcohol-related.

(8) Indians between the ages of 15 and 24 years of age are twice as likely as the general population to die in automobile accidents, 75 percent of which are alcohol-related.

(9) the Indian Health Service, which is charged with treatment and rehabilitation efforts, has directed only 1 percent of its budget for alcohol and substance abuse problems.

(10) the Bureau of Indian Affairs, which has responsibility for programs in the fields of education, social services, law enforcement, and other programs, has assumed little responsibility for coordinating its various efforts to focus on the epidemic of alcohol and substance abuse among Indian people.

(11) this lack of emphasis and priority continues despite the fact that Bureau of Indian Affairs and Indian Health Service officials publicly acknowledge that alcohol and substance abuse among Indian youth is the most serious health and social problem facing the Indian people, and

(12) the Indian tribes have the primary responsibility for protecting and ensuring the well-being of their communities and that the resources available through actions taken under this subtitle will be provided in order to assist Indian tribes in meeting those responsibilities.

SEC. 1103. PURPOSE.

It is the purpose of this subtitle to—

(1) authorize and develop a comprehensive, coordinated attack upon the illegal narcotics traffic in Indian country and the deleterious impact of alcohol and substance abuse upon Indian tribes and their members,

(2) provide needed direction and guidance to those Federal agencies responsible for Indian programs to identify and focus existing programs and resources, including those made available by this subtitle, upon this problem,

(3) provide authority and opportunities for Indian tribes to develop and implement

a coordinated program for the prevention and treatment of alcohol and substance abuse at the local level, and

(4) to modify or supplement existing programs and authorities in the areas of education, family and social services, law enforcement and judicial services, and health services to further the purposes of this subtitle.

SEC. 1104. DEFINITIONS.

For purposes of this subtitle:

(1) The term "agency" means the local administrative entity of the Bureau of Indian Affairs serving one or more Indian tribes within a defined geographic area.

(2) The term "youth" shall have the meaning given it in any particular Tribal Action Plan adopted pursuant to section 1106, except that, for purposes of statistical reporting under this subtitle, it shall mean a person who is 18 years or younger or who is in attendance at a secondary school.

(3) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(4) The term "prevention and treatment" includes, as appropriate—

(A) efforts to identify, and the identification of, individuals who are at risk with respect to, or who are abusers of, alcohol or controlled substances,

(B) intervention into cases of on-going alcohol and substance abuse to halt a further progression of such abuse,

(C) prevention through education and the provision of alternative activities,

(D) treatment for alcohol and substance abusers to help abstain from, and alleviate the effects of, abuse,

(E) rehabilitation to provide on-going assistance, either on an inpatient or outpatient basis, to help individuals reform or abstain from alcohol or substance abuse,

(F) follow-up or after-care to provide the appropriate counseling and assistance on an outpatient basis, and

(G) referral to other sources of assistance or resources.

(5) The term "service unit" means an administrative entity within the Indian Health Service or a tribe or tribal organization operating health care programs or facilities with funds from the Indian Health Service under the Indian Self-Determination Act through which the services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

PART II—COORDINATION OF RESOURCES AND PROGRAMS

SEC. 1105. INTER-DEPARTMENTAL MEMORANDUM OF AGREEMENT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this subtitle, the Secretary of the Interior and the Secretary of Health and Human Services shall develop and enter into a Memorandum of Agreement which shall, among other things—

(1) determine and define the scope of the problem of alcohol and substance abuse for Indian tribes and their members and its financial and human costs, and specifically identify such problems affecting Indian youth,

(2) identify and assess—

(A) the resources and programs of the Bureau of Indian Affairs and Indian Health Service, and

(B) other Federal, tribal, State and local, and private resources and programs,

which would be relevant to a coordinated effort to combat alcohol and substance abuse among Indian people, and specifically among Indian youth, including those programs and resources made available by this subtitle,

(3) develop and establish appropriate minimum standards for each agency's program responsibilities under the Memorandum of Agreement which may be—

(A) the existing Federal or State standards in effect, or

(B) in the absence of such standards, new standards which will be developed and established in consultation with Indian tribes,

(4) coordinate the Bureau of Indian Affairs and Indian Health Service alcohol and substance abuse programs existing on the date of the enactment of this subtitle with programs or efforts established by this subtitle,

(5) delineate the responsibilities of the Bureau of Indian Affairs and the Indian Health Service to coordinate alcohol and substance abuse-related services at the central, area, agency, and service unit levels,

(6) direct Bureau of Indian Affairs agency and education superintendents and the Indian Health Service service unit directors to cooperate fully with tribal requests made pursuant to section 1106, and

(7) provide for an annual review of such agreements by the Secretary of the Interior and the Secretary of Health and Human Services.

(b) CHARACTER OF ACTIVITIES.—To the extent that there are new activities undertaken pursuant to this subtitle, those activities shall supplement, not supplant, activities, programs, and local actions that are ongoing on the date of the enactment of this subtitle. Such activities shall be undertaken in the manner least disruptive to tribal control, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), and local control, in accordance with section 1130 of the Education Amendments of 1978 (25 U.S.C. 2010).

(c) CONSULTATION.—The Secretary of the Interior and the Secretary of Health and Human Services shall, in developing the Memorandum of Agreement under subsection (a), consult with and solicit the comments of—

(1) interested Indian tribes,

(2) Indian individuals,

(3) Indian organizations, and

(4) professionals in the treatment of alcohol and substance abuse.

(d) PUBLICATION.—The Memorandum of Agreement under subsection (a) shall be submitted to Congress and published in the Federal Register not later than 190 days after the date of enactment of this subtitle. At the same time as publication in the Federal Register, the Secretary of the Interior shall provide a copy of this subtitle and the Memorandum of Agreement under subsection (a) to each Indian tribe.

SEC. 1106. TRIBAL ACTION PLANS.

(a) IN GENERAL.—The governing body of any Indian tribe may, at its discretion, adopt a resolution for the establishment of a Tribal Action Plan to coordinate available resources and programs, including programs and resources made available by this subtitle, in an effort to combat alcohol and substance abuse among its members. Such reso-

lution shall be the basis for the implementation of this subtitle and the Memorandum of Agreement under section 1105.

(b) **COOPERATION.**—At the request of any Indian tribe pursuant to a resolution adopted under subsection (a), the Bureau of Indian Affairs agency and education superintendents and the Indian Health Service service unit director providing services to such tribe shall cooperate with the tribe in the development of a Tribal Action Plan to coordinate resources and programs relevant to alcohol and substance abuse prevention and treatment. Upon the development of such a plan, such superintendents and director, as directed by the Memorandum of Agreement established under section 1105, shall enter into an agreement with the tribe for the implementation of the Tribal Action Plan under subsection (a).

(c) **PROVISIONS.**—

(1) Any Tribal Action Plan entered into under subsection (b) shall provide for—

(A) the establishment of a Tribal Coordinating Committee which shall—

(i) at a minimum, have as members a tribal representative who shall serve as Chairman and the Bureau of Indian Affairs agency and education superintendents and the Indian Health Service service unit director, or their representatives,

(ii) have primary responsibility for the implementation of the Tribal Action Plan,

(iii) have the responsibility for on-going review and evaluation of, and the making of recommendations to the tribe relating to, the Tribal Action Plan, and

(iv) have the responsibility for designating key Federal, tribal or other personnel for training in the prevention and treatment of Indians affected by alcohol and substance abuse as provided under section 1127, and

(B) the incorporation of the minimum standards for those programs and services which it encompasses which shall be—

(i) the Federal or State standards as provided in section 1105(a)(3), or

(ii) applicable tribal standards, if such standards are no less stringent than the Federal or State standards.

(2) Any Tribal Action Plan may, among other things, provide for—

(A) an assessment of the scope of the problem of alcohol and substance abuse for the Indian tribe which adopted a resolution for the adoption of the Tribal Action Plan and its members,

(B) the identification and coordination of the range of available programs and resources relevant to a program of alcohol and substance abuse prevention and treatment for tribal members,

(C) the establishment and prioritization of goals and efforts needed to meet those goals, and

(D) the identification of the community and family roles in any of the efforts undertaken as part of the Tribal Action Plan.

(d) **GRANTS.**—The Secretary of the Interior may make grants to Indian tribes adopting a resolution pursuant to subsection (a) to provide technical assistance in the development of a Tribal Action Plan. In allocating funds appropriated for such grants, the Secretary shall take into consideration—

(1) the population of the Indian tribe receiving the grant,

(2) the size of the tribe's reservation or service area,

(3) the scope of intended efforts under a Tribal Action Plan as identified by the tribe in its resolution adopted pursuant to subsection (a), and

(4) the commitment of the Indian tribe as measured by the tribal funds or other tribal

resources made available to carry out the purposes of this subtitle.

There is authorized to be appropriated not to exceed \$8,000,000 for each of the fiscal years 1987, 1988, and 1989 for grants under this subsection.

(e) **FEDERAL ACTION.**—If any Indian tribe does not adopt a resolution as provided in subsection (a) within 180 days after the publication of the Memorandum of Agreement in the Federal Register as provided in section 1105, the Secretary of the Interior and the Secretary of Health and Human Services shall require the Bureau of Indian Affairs agency and education superintendents and the Indian Health Service service unit director serving such tribe to enter into an agreement to identify and coordinate available programs and resources to carry out the purposes of this subtitle for such tribe. After such an agreement has been entered into for a tribe such tribe may adopt a resolution under subsection (a).

SEC. 1107. DEPARTMENTAL RESPONSIBILITY.

(a) **IMPLEMENTATION.**—The Secretary of the Interior, acting through the Bureau of Indian Affairs, and the Secretary of Health and Human Services, acting through the Indian Health Service, shall bear equal responsibility for the implementation of this subtitle in cooperation with Indian tribes.

(b) **OFFICE OF ALCOHOL AND SUBSTANCE ABUSE.**—

(1) In order to better coordinate the various programs of the Bureau of Indian Affairs in carrying out this subtitle, there is established within the Office of the Assistant Secretary of Indian Affairs an Office of Alcohol and Substance Abuse. The director of such office shall be appointed by the Assistant Secretary on a permanent basis at no less than a grade GS-15 of the General Schedule.

(2) In addition to other responsibilities which may be assigned to such Office, it shall be responsible for—

(A) monitoring the performance and compliance of programs of the Bureau of Indian Affairs in meeting the goals and purposes of this subtitle and the Memorandum of Agreement entered into under section 1105, and

(B) serving as a point of contact within the Bureau of Indian Affairs for Indian tribes and the Tribal Coordinating Committees regarding the implementation of this subtitle, the Memorandum of Agreement, and any Tribal Action Plan established under section 1106.

(c) **INDIAN YOUTH PROGRAMS OFFICER.**—

(1) There is established in the Office of Alcohol and Substance Abuse the position to be known as the Indian Youth Programs Officer.

(2) The position of Indian Youth Programs Officer shall be established on a permanent basis at no less than the grade of GS-14 of the General Schedule.

(3) In addition to other responsibilities which may be assigned to the Indian Youth Programs Officer relating to Indian Youth, such Officer shall be responsible for—

(A) monitoring the performance and compliance of programs of the Bureau of Indian Affairs in meeting the goals and purposes of this subtitle and the Memorandum of Agreement entered into under section 1105 as they relate to Indian youth efforts, and

(B) providing advice and recommendations, including recommendations submitted by Indian tribes and Tribal Coordinating Committees, to the Director of the Office of Alcohol and Substance Abuse as they relate to Indian youth.

SEC. 1108. CONGRESSIONAL INTENT.

It is the intent of Congress that—

(1) specific Federal laws, and administrative regulations promulgated thereunder, establishing programs of the Bureau of Indian Affairs, the Indian Health Service, and other Federal agencies, and

(2) general Federal laws, including laws limiting augmentation of Federal appropriations or encouraging joint or cooperative funding,

shall be liberally construed and administered to achieve the purposes of this subtitle.

SEC. 1109. FEDERAL FACILITIES, PROPERTY, AND EQUIPMENT.

(a) **FACILITY AVAILABILITY.**—In the furtherance of the purposes and goals of this subtitle, the Secretary of the Interior and the Secretary of Health and Human Services shall make available for community use, to the extent permitted by law and as may be provided in a Tribal Action Plan, local Federal facilities, property, and equipment, including school facilities. Such facility availability shall include school facilities under the Secretary of the Interior's jurisdiction, provided that the use of any school facilities shall be conditioned upon approval of the local school board with jurisdiction over such school.

(b) **COSTS.**—Any additional cost associated with the use of Federal facilities, property, or equipment under subsection (a) may be borne by the Secretary of the Interior and the Secretary of Health and Human Services out of available funds, by other Federal funds if not otherwise prohibited by law, or by tribal, State or local, or private funds. This subsection does not require the Secretary of the Interior or the Secretary of Health and Human Services to expend additional funds to meet the additional costs which may be associated with the provision of such facilities, property, or equipment for community use. Where the use of Federal facilities, property, or equipment under subsection (a) furthers the purposes and goals of this subtitle, the use of funds other than those funds appropriated to the Department of the Interior or the Department of Health and Human Services to meet the additional costs associated with such use shall not constitute an augmentation of Federal appropriations.

(c) **SECRETARY OF THE INTERIOR.**—Subject to the availability of specific appropriations, the Secretary of the Interior shall—

(1) establish summer recreation, employment, and counseling programs for Indian youth on reservations,

(2) keep open for those weeks not within the normal school year such Bureau of Indian Affairs funded or contracted schools, subject to the approval of the school board involved, and as the Secretary determines to be necessary to provide facilities for the programs established under paragraph (1),

(3) take all steps necessary to preserve any school property made available for any programs established under paragraph (1) and to defray all expenses associated with such programs, including facility expenses, and

(4) provide, as needed, salaried coordinators for such programs.

PART III—INDIAN YOUTH PROGRAMS

SEC. 1110. REVIEW OF PROGRAMS.

(a) **REVIEW.**—In the development of the Memorandum of Agreement required by section 1105, the Secretary of the Interior and the Secretary of Health and Human Services, in cooperation with the Secretary of Education shall review and consider—

(1) the various programs established by Federal law providing education services or benefits to Indian children,

(2) tribal, State, and local, and private educational resources and programs,

(3) the various programs established by Federal law providing family and social services and benefits for Indian families and children,

(4) various programs and resources established by Federal law relating to youth employment, recreation, cultural, and community activities, and

(5) tribal, State, and local, and private resources for programs similar to those cited in paragraphs (3) and (4),

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) PUBLICATION.—The results of the review conducted under subsection (a) shall be provided to each Indian tribe as soon as possible for their consideration and use in the development or modification of a Tribal Action Plan under section 1106.

SEC. 1111. INDIAN EDUCATION PROGRAMS.

(a) PILOT PROGRAMS.—The Assistant Secretary of Indian Affairs shall develop and implement a pilot program in selected schools to determine the effectiveness of summer youth programs in furthering the purposes and goals of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986. For the pilot program there are authorized to be appropriated \$5,000,000 for each of the fiscal years 1987, 1988, and 1989."

(b) USE OF FUNDS.—Federal financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act, (25 U.S.C. 452 et seq.),

(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa et seq.), and

(3) the Indian Education Act (20 U.S.C. 3385),

may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

SEC. 1112. NEWSLETTER.

The Secretary of the Interior shall, not later than 120 days after the date of the enactment of this subtitle, publish an alcohol and substance abuse newsletter in cooperation with the Secretary of Health and Human Services and the Secretary of Education to report on Indian alcohol and substance abuse projects and programs. The newsletter shall—

(1) be published once in each calendar quarter,

(2) include reviews of programs determined by the Secretary of the Interior to be exemplary and provide sufficient information to enable interested persons to obtain further information about such programs, and

(3) be circulated without charge to—

- (A) schools,
- (B) tribal offices,
- (C) Bureau of Indian Affairs' agency and area offices,
- (D) Indian Health Service area and service unit offices,
- (E) Indian Health Service alcohol programs, and
- (F) other entities providing alcohol and substance abuse related services or resources to Indian people.

SEC. 1113. EMERGENCY SHELTERS.

(a) IN GENERAL.—A Tribal Action Plan adopted pursuant to section 1106 may make such provisions as may be necessary and practical for the establishment, funding, licensing, and operation of emergency shelters or half-way houses for Indian youth who are alcohol or substance abusers, including youth who have been arrested for offenses directly or indirectly related to alcohol or substance abuse.

(b) REFERRALS.—

(1) In any case where an Indian youth is arrested or detained by the Bureau of Indian Affairs or tribal law enforcement personnel for an offense relating to alcohol or substance abuse, other than for a status offense as defined by the Juvenile Justice and Delinquency Prevention Act of 1974, under circumstances where such youth may not be immediately restored to the custody of his parents or guardians and where there is space available in an appropriately licensed and supervised emergency shelter or half-way house, such youth shall be referred to such facility in lieu of incarceration in a secured facility unless such youth is deemed a danger to himself or to other persons.

(2) In any case where there is a space available in an appropriately licensed and supervised emergency shelter or half-way house, the Bureau of Indian Affairs and tribal courts are encouraged to refer Indian youth convicted of offenses directly or indirectly related to alcohol and substance abuse to such facilities in lieu of sentencing to incarceration in a secured juvenile facility.

(c) DIRECTION TO STATES.—In the case of any State that exercises criminal jurisdiction over any part of Indian country under section 1162 of title 18 of the United States Code or section 401 of the Act of April 11, 1968 (25 U.S.C. 1321), such State is urged to require its law enforcement officers to—

(1) place any Indian youth arrested for any offense related to alcohol or substance abuse in a temporary emergency shelter described in subsection (d) or a community-based alcohol or substance abuse treatment facility in lieu of incarceration to the extent such facilities are available, and

(2) observe the standards promulgated under subsection (d).

(d) STANDARDS.—The Assistant Secretary of Indian Affairs shall, as part of the development of the Memorandum of Agreement set out in section 1105, promulgate standards by which the emergency shelters established under a program pursuant to subsection (a) shall be established and operate.

(e) HOUSING INVENTORY.—Upon the request of any Indian tribe, the Bureau of Indian Affairs shall include in its housing inventory for such tribe the lack of an emergency shelter or half-way house as an unmet housing need. The construction or renovation of such a facility shall be considered an eligible activity under the Bureau of Indian Affairs' Housing Improvement Program.

(f) FINANCIAL ASSISTANCE.—To assist Indian tribes in the construction, renovation, and operation of emergency shelters, half-way houses, or foster care homes to provide emergency care for Indian youth who are affected by alcohol and substance abuse there is authorized to be appropriated not to exceed \$10,000,000 for each of the fiscal years 1987, 1988, and 1989. The Secretary of the Interior shall allocate funds appropriated pursuant to this subsection on the basis of priority of need of the various

Indian tribes and such funds, when allocated, shall be subject to contracting pursuant to the Indian Self-Determination Act.

SEC. 1114. SOCIAL SERVICES REPORTS.

(a) DATA.—The Secretary of the Interior, with respect to the administration of any family or social services program by the Bureau of Indian Affairs directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to the number and types of child abuse and neglect cases seen and the type of assistance provided. Additionally, such data should also be categorized to reflect those cases that involve, or appear to involve, alcohol and substance abuse, those cases which are recurring, and those cases which involve other minor siblings.

(b) REFERRAL OF DATA.—The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan and shall also be submitted to the Indian Health Service unit director who will have responsibility for compiling a tribal comprehensive report as provided in section 1129.

(c) CONFIDENTIALITY.—In carrying out the requirements of subsections (a) and (b), the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals.

PART IV—LAW ENFORCEMENT AND JUDICIAL SERVICES

SEC. 1115. REVIEW OF PROGRAMS.

(a) LAW ENFORCEMENT AND JUDICIAL SERVICES.—In the development of the Memorandum of Agreement required by section 1105, the Secretary of the Interior and the Secretary of Health and Human Services, in cooperation with the Attorney General of the United States, shall review and consider—

(1) the various programs established by Federal law providing law enforcement or judicial services for Indian tribes, and

(2) tribal and State and local law enforcement and judicial programs and systems to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) DISSEMINATION OF REVIEW.—The results of the review conducted pursuant to subsection (a) shall be made available to every Indian tribe as soon as possible for their consideration and use in the development and modification of a Tribal Action Plan.

PART V—BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT

SEC. 1116. TRIBAL COURTS, SENTENCING, AND FINES.

To enhance the ability of tribal governments to prevent and penalize the traffic of illegal narcotics on Indian reservations, paragraph (7) of section 202 of the Act of April 11, 1969 (25 U.S.C. 1302) is amended by striking out "for a term of six months and a fine of \$500, or both" and inserting in lieu thereof "for a term of one year and a fine of \$5,000, or both".

SEC. 1117. BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT AND JUDICIAL TRAINING.

(a) IN GENERAL.—The Secretary of the Interior shall ensure, through the establishment of a new training program or through the supplement of existing training programs, that all Bureau of Indian Affairs and tribal law enforcement and judicial personnel shall have available training in the in-

vestigation and prosecution of offenses relating to illegal narcotics and in alcohol and substance abuse prevention and treatment. Any training provided to Bureau of Indian Affairs and tribal law enforcement and judicial personnel as provided in this subsection shall specifically include training in the problems of youth alcohol and substance abuse prevention and treatment. Such training shall be coordinated with the Indian Health Service in the carrying out of its responsibilities under section 1127.

(b) AUTHORIZATION.—For the purpose of providing the training required by subsection (a), there are authorized to be appropriated not to exceed \$2,500,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 1118. MEDICAL ASSESSMENT AND TREATMENT OF JUVENILE OFFENDERS.

The Memorandum of Agreement entered into pursuant to section 1105 shall include a specific provision for the development and implementation at each Bureau of Indian Affairs agency and Indian Health Service unit of a procedure for the emergency medical assessment and treatment of every Indian youth arrested or detained by Bureau of Indian Affairs or tribal law enforcement personnel for an offense relating to or involving alcohol or substance abuse. The medical assessment required by this subsection—

(1) shall be conducted to determine the mental or physical state of the individual assessed so that appropriate steps can be taken to protect the individual's health and well-being,

(2) shall occur as soon as possible after the arrest or detention of an Indian youth, and

(3) shall be provided by the Indian Health Service, either directly or through its contract health service.

SEC. 1119. SOURCE ERADICATION.

(a) MARIJUANA ERADICATION.—The Secretary of the Interior, in cooperation with appropriate Federal, tribal, and State and local law enforcement agencies, shall establish and implement a program for the eradication of marijuana cultivation within Indian country as defined in section 1151 of title 18, United States Code. The Secretary shall establish a priority for the use of funds appropriated under subsection (b) for those Indian reservations where the scope of the problem is most critical and such funds shall be available for contracting by Indian tribes pursuant to the Indian Self-Determination Act.

(b) AUTHORIZATION.—To carry out subsection (a), there are authorized to be appropriated not to exceed \$1,500,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 1120. ILLEGAL NARCOTICS TRAFFIC ON THE PAPAGO RESERVATION.

(a) INVESTIGATION AND CONTROL.—The Secretary of the Interior shall provide assistance to the Papago Indian Tribe (Tohono O'odham) of Arizona for the investigation and control of illegal narcotics traffic on the Papago Reservation along the border with Mexico. The Secretary shall ensure that tribal efforts are coordinated with appropriate Federal law enforcement agencies, including the United States Customs Service.

(b) AUTHORIZATIONS.—For the purpose of providing the assistance required by subsection (a), there is authorized to be appropriated not to exceed \$1,000,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 1121. JUVENILE DETENTION CENTERS.

(a) PLAN.—The Secretary of the Interior shall develop and implement a plan for the construction or renovation and staffing of

tribal juvenile detention and rehabilitation centers for Indian tribes. In the development of the plan and in the allocation of funds appropriated under subsection (b), the Secretary shall insure that the construction and operation of tribal juvenile detention centers shall be consistent with the Juvenile Justice and Delinquency Prevention Act of 1974.

(b) AUTHORIZATION.—For the purpose of subsection (a), there are authorized to be appropriated not to exceed \$24,000,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 1122. MODEL INDIAN JUVENILE CODE.

The Secretary of the Interior, either directly or by contract, shall provide for the development of a Model Indian Juvenile Code which shall be consistent with the Juvenile Justice and Delinquency Prevention Act of 1974 and which shall include provisions relating to the disposition of cases involving Indian youth arrested or detained by Bureau of Indian Affairs or tribal law enforcement personnel for alcohol or drug related offenses. The development of such model code shall be accomplished in cooperation with Indian organizations having an expertise or knowledge in the field of law enforcement and judicial procedure and in consultation with Indian tribes. Upon completion of the Model Code, the Secretary shall make copies available to each Indian tribe.

SEC. 1123. LAW ENFORCEMENT AND JUDICIAL REPORT.

(a) COMPILATION OF LAW ENFORCEMENT DATA.—The Secretary of the Interior, with respect to the administration of any law enforcement or judicial services program by the Bureau of Indian Affairs, either directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to calls and encounters, arrests and detentions, and disposition of cases by Bureau of Indian Affairs or tribal law enforcement or judicial personnel involving Indians where it is determined that alcohol or drug abuse is a contributing factor.

(b) REFERRAL OF DATA.—The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan and shall also be submitted to the Indian Health Service unit director who will have the responsibility for compiling a tribal comprehensive report as provided in section 1128.

(c) CONFIDENTIALITY.—In carrying out this section, the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals involved.

PART VI—INDIAN ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION

SEC. 1125. REVIEW OF PROGRAMS.

(a) IN GENERAL.—In the development of the Memorandum of Agreement required by section 1105, the Secretary of the Interior and the Secretary of Health and Human Services shall review and consider—

(1) the various programs established by Federal law providing health services and benefits to Indian tribes, including those relating to mental health and alcohol and substance abuse prevention and treatment, and

(2) tribal, State and local, and private health resources and programs,

(3) where facilities to provide such treatment are or should be located, and

(4) the effectiveness of public and private alcohol and substance abuse treatment pro-

grams in operation on the date of the enactment of this subtitle,

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) DISSEMINATION.—The results of the review conducted under subsection (a) shall be provided to every Indian tribe as soon as possible for their consideration and use in the development or modification of a Tribal Action Plan.

SEC. 1126. INDIAN HEALTH SERVICE RESPONSIBILITIES.

The Memorandum of Agreement entered into pursuant to section 1105 shall include specific provisions pursuant to which the Indian Health Service shall assume responsibility for—

(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Indian Health Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost,

(2) an assessment of the existing and needed resources necessary to adequately support a program for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse, and

(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

SEC. 1127. ALCOHOL AND SUBSTANCE ABUSE TREATMENT.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Indian Health Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include—

(1) prevention, through educational intervention, in Indian communities,

(2) acute detoxification and treatment,

(3) community-based rehabilitation, and

(4) community education and involvement, including extensive training of health care, educational, and community-based personnel.

The target population of such a program shall be the members of Indian tribes, with particular emphasis on Indian youth. Additionally, efforts to train and educate key members of the Indian community should target those who are involved in the provision of health, education, judicial, law enforcement, legal, and social services to this population.

(b) DETOXIFICATION AND REHABILITATION.—The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

(c) CENTERS.—The Secretary, with funds appropriated under this subsection, shall begin the construction of eleven regional treatment centers serving the Indian tribes under the jurisdiction of the area offices of the Indian Health Service. For purposes of the preceding sentence, the Area Offices of the Indian Health Service in Tucson and Phoenix, Arizona, shall be considered one area office. The regional treatment centers shall be appropriately staffed with health

professionals, including psychologists, alcohol and substance abuse counselors, physical fitness professionals, nutritionists, physicians, nurses and administrative and support staff. There are authorized to be appropriated for the construction of the regional treatment centers not to exceed \$4,000,000. There are also authorized to be appropriated not to exceed \$8,250,000 for each of the fiscal years 1987, 1988, and 1989 to provide staff for such centers.

(d) **REHABILITATION AND FOLLOW-UP SERVICES.**

(1) The Secretary in cooperation with the Secretary of the Interior, shall develop and implement within each Indian Health Service unit community-based rehabilitation and follow-up services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and non-alcohol or non-substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and para-professionals, including community health representatives.

(3) For the purpose of providing the services authorized by paragraph (1), there are authorized to be appropriated \$18,000,000 for each of the fiscal years 1987, 1988, and 1989.

(e) **COMMUNITY EDUCATION.**

(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include training in alcohol and substance abuse to the critical core of each tribal community, including political leaders, tribal judges, law enforcement personnel, members of tribal and health and education boards, and other critical parties.

(2) For the purpose of implementing the program established by paragraph (1), there are authorized to be appropriated \$4,000,000 for fiscal year 1987, \$1,000,000 for fiscal year 1988, and \$500,000 for fiscal year 1989.

(f) **TRAINING.**

(1) The Secretary shall require that existing health staff of the Indian Health Service, particularly those at the service unit level, shall receive the necessary training in alcohol and substance abuse to enable the Indian Health Service to address that problem in a coordinated manner with common approaches. In carrying out that responsibility, the Secretary shall make available to community health representatives funded by the Indian Health Service additional training in prevention strategies that will support a school-based program. Such training will also include techniques for early identification of symptoms of alcohol and substance abuse and support strategies for maintenance of alcohol and substance-free life-styles, including fitness programs, nutritional awareness programs, recreational alternatives, and cultural activities.

(2) For the purpose of providing training under paragraph (1), there are authorized to be appropriated \$4,000,000 for fiscal year

1987, \$2,000,000 for fiscal year 1988, and \$500,000 for fiscal year 1989.

(g) **PREVENTION.**

(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement a program of prevention of alcohol and substance abuse among Indian youth through education intervention. Such a program shall include—

(A) the training of counselors and supervisors employed in Head Start programs serving Indian tribes in methods to enhance the self-image of Indian children attending such Head Start programs,

(B) the development and implementation of a program of instruction in alcohol and substance abuse in the curricula of Bureau of Indian Affairs' schools operated under contracts entered into pursuant to the Indian Self-Determination Act, and

(C) the training of counselors, teachers, and other educational professionals in such schools in alcohol and substance abuse.

(2) For the purpose of carrying out—

(A) subparagraph (A) of paragraph (1), there are authorized to be appropriated \$1,000,000 for each of the fiscal years 1987, 1988, and 1989,

(B) subparagraph (B) of paragraph (1), there are authorized to be appropriated \$1,000,000 for each of the fiscal years 1987, 1988, and 1989, and

(C) subparagraph (C) of paragraph (1), there are authorized to be appropriated \$1,250,000 for each of the fiscal years 1987, 1988, and 1989.

(h) **FEDERALLY OWNED STRUCTURES.**

(1) The Secretary of Health and Human Services shall, acting through the Indian Health Service, identify and use, wherever appropriate and consistent with the needs of an Indian tribe or tribal organization, existing federally owned structures suitable as residential alcohol and substance abuse treatment centers for Indian youths.

(2) The Secretary of Health and Human Services shall, in consultation with professionals involved in the clinical treatment of alcohol and substance abuse among Indian youth, establish guidelines for determining the suitability of any such federally owned structure to be used as a residential alcohol and substance abuse treatment center. No clinically inappropriate or structurally unsound building shall be used as such a treatment center.

(3) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary of Health and Human Services and the agency having responsibility for the structure.

(4) The Secretary of Health and Human Services may, directly or by contract, renovate any facility described in paragraph (1). Any such renovation shall conform with—

(A) such terms and conditions as have been agreed upon under paragraph (3), and

(B) such clinical requirements for alcohol and substance abuse treatment centers as are determined to be appropriate by alcohol and substance abuse treatment professionals.

(5) There are authorized to be appropriated such sums as may be necessary to carry out paragraphs (1) through (4).

SEC. 1128. NAVAJO ALCOHOL REHABILITATION DEMONSTRATION PROGRAM.

(a) **DEMONSTRATION PROGRAM.**—The Secretary of Health and Human Services shall make grants to the Navajo Tribe to establish a demonstration program in the city of Gallup, New Mexico, to rehabilitate adult

Navajo Indians suffering from alcoholism or alcohol abuse.

(b) **EVALUATION AND REPORT.**—The Secretary, acting through the National Institute on Alcohol Abuse and Alcoholism, shall evaluate the program established under subsection (a) and submit a report on such evaluation to the appropriate Committees of Congress by January 1, 1990.

(c) **AUTHORIZATION.**—There are authorized to be appropriated for the purposes of grants under subsection (a) \$400,000 for each of the fiscal years 1988, 1989, and 1990. Not more than 10 percent of the funds appropriated for any fiscal year may be used for administrative purposes.

SEC. 1129. INDIAN HEALTH SERVICE REPORTS.

(a) **COMPILATION OF DATA.**—The Secretary of Health and Human Services, with respect to the administration of any health program by an Indian Health Service unit, directly or through contract, including a contract under the Indian Self-Determination Act, shall require the compilation of data relating to the number of cases or incidents which any of the Indian Health Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

(b) **REFERRAL OF DATA.**—The data compiled under subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan.

(c) **COMPREHENSIVE REPORT.**—Each Indian Health Service unit director shall be responsible for assembling the data compiled under this section and sections 1114 and 1123 into an annual tribal comprehensive report which shall be provided to the affected tribe and to the Director of the Indian Health Service who shall develop and publish a biennial national report on such tribal comprehensive reports.

Subtitle B—National Park Service Program

SEC. 1131. SHORT TITLE.

This subtitle may be cited as the "National Park Police Drug Enforcement Supplemental Authority Act".

SEC. 1132. NATIONAL PARK POLICE AUTHORIZATION.

In order to improve Federal law enforcement activities relating to the use of narcotics and prohibited substances in national park system units there are made available to the Secretary of the Interior, in addition to sums made available under other authority of law, \$1,000,000 for the fiscal year 1987, and for each fiscal year thereafter, to be used for the employment and training of additional Park Police, for equipment and facilities to be used by Park Police, and for expenses related to such employment, training, equipment, and facilities.

Subtitle C—Programs in United States Insular Areas

SEC. 1141. SHORT TITLE.

This subtitle may be cited as the "U.S. Insular Areas Drug Abuse Act of 1986".

SEC. 1142. ANNUAL REPORTS TO CONGRESS.

The President shall report annually to the Congress as to—

(1) the efforts and success of Federal agencies in preventing the illegal entry into the United States of controlled substances from the insular areas of the United States outside the customs territory of the United States and states freely associated with the

United States and the nature and extent of such illegal entry, and

(2) the efforts and success of Federal agencies in preventing the illegal entry from other nations, including states freely associated with the United States, of controlled substances into the United States territories and the commonwealths for use in the territories and commonwealths or for transshipment to the United States and the nature and extent of such illegal entry and use.

SEC. 1143. ENFORCEMENT AND ADMINISTRATION IN INSULAR AREAS.

(a) AMERICAN SAMOA.—(1) With the approval of the Attorney General of the United States or his designee, law enforcement officers of the Government of American Samoa are authorized to—

(A) execute and serve warrants, subpoenas, and summons issued under the authority of the United States;

(B) make arrests without warrant; and

(C) make seizures of property to carry out the purposes of this subtitle, the Controlled Substances Import and Export Act (21 U.S.C. 951-970), and any other applicable narcotics laws of the United States.

(2) The Attorney General of the United States is authorized to—

(A) train law enforcement officers of the Government of American Samoa, and

(B) provide by purchase or lease law enforcement equipment, including aircraft and high-speed vessels, and technical assistance to the Government of American Samoa to carry out the purposes of this subtitle and any other Federal or territorial drug abuse laws.

(3) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection, to remain available until expended.

(b) GUAM.—(1)(A) The Drug Enforcement Administration and the Federal Bureau of Investigation should each assign no less than 2 agents to Guam.

(B) The Coast Guard should assign and maintain at least 4 patrol vessels in Guam at all times.

(2) The Customs Service and the Postal Service should assign officers to work in conjunction with the personnel assigned to Guam pursuant to paragraph (1) and other agents in Guam.

(3)(A) The Attorney General of the United States may provide technical assistance and equipment to the Government of Guam to carry out the purposes of this subtitle and any other Federal or territorial drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

(c) THE NORTHERN MARIANA ISLANDS.—(1) With the approval of the Attorney General of the United States or his designee, law enforcement officers of the Government of the Northern Mariana Islands are authorized to—

(A) execute and serve warrants, subpoenas, and summons issued under the authority of the United States;

(B) make arrests without warrant; and

(C) make seizures of property to carry out the purposes of this subtitle, the Controlled Substances Import and Export Act (21 U.S.C. 951-970), and any other applicable narcotics laws of the United States.

(2) The Attorney General of the United States is authorized to—

(A) train law enforcement officers of the Government of the Northern Mariana Islands, and

(B) provide, by purchase or lease, law enforcement equipment, including aircraft and high-speed vessels, and technical assistance to the Government of the Northern Mariana Islands to carry out the purposes of this subtitle and any other Federal or commonwealth drug abuse law.

(3) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection, to remain available until expended.

(4) Federal personnel and equipment assigned to Guam pursuant to subsection (b) of this section shall also be available to carry out the purposes of this subtitle in the Northern Mariana Islands.

(d) PUERTO RICO.—(1) There are authorized to be appropriated for grants to the Government of Puerto Rico—

(A) \$3,300,000 for the purchase of 2 helicopters;

(B) \$3,500,000 for the purchase of an aircraft; and

(C) \$1,000,000 for the purchase and maintenance of 5 high-speed vessels.

Sums appropriated under this paragraph shall remain available until expended.

(2) The Drug Enforcement Administration should assign and maintain no less than 26 agents in Puerto Rico.

(3) The Federal Bureau of Investigation should assign and maintain no less than 96 agents in Puerto Rico.

(4) The Customs Service should assign and maintain no less than 25 agents in Puerto Rico.

(5) Equipment provided to the Government of Puerto Rico pursuant to paragraph (1) of this subsection shall be made available upon request to the Federal agencies involved in drug interdiction in Puerto Rico.

(6)(A) The Attorney General of the United States may provide technical assistance and equipment to the Government of Puerto Rico to carry out the purposes of this subtitle and any other Federal or commonwealth drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

(e) THE VIRGIN ISLANDS.—(1) There are authorized to be appropriated for grants to the Government of the Virgin Islands—

(A) \$3,000,000 for 2 patrol vessels, tracking equipment, supplies, and agents, and

(B) \$1,000,000 for programs to prevent narcotics abuse, such sums to remain available until expended.

(2) The Drug Enforcement Administration and the Federal Bureau of Investigation should each assign no less than 2 agents to the United States Virgin Islands.

(3) The Customs Service and the Postal Service should assign officers to work in conjunction with the personnel assigned pursuant to subsection (b) and other agents in the United States Virgin Islands.

(4) The United States Coast Guard should assign and maintain at least 1 patrol vessel to St. Thomas and St. John and 1 patrol vessel to St. Croix, Virgin Islands, at all times.

(5)(A) The Attorney General of the United States may provide technical assistance and equipment to the Government of the United States Virgin Islands to carry out the purposes of this subtitle and any other Federal or territorial drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

TITLE XII—COMMITTEE ON GOVERNMENT OPERATIONS

SEC. 1201. SHORT TITLE.

This title may be cited as the "National Antidrug Reorganization and Coordination Act".

SEC. 1202. FINDINGS.

The Congress finds that—

(1) the Federal Government's response to drug trafficking and drug abuse is divided among several dozen agencies and bureaus of the Government, ranging from the Department of Defense to the Department of Health and Human Services;

(2) numerous recent congressional hearings and reports, reports by the Comptroller General, and studies by Executive branch agencies have documented the waste and inefficiency caused by this division of responsibilities;

(3) interagency competition for credit and budget dollars imposes critical obstacles to efficient application of national resources in combating drug trafficking and drug abuse; and

(4) successfully combating such trafficking and drug abuse requires coherent planning that includes intelligent organization and operations of Executive branch agencies.

SEC. 1203. SUBMISSION OF LEGISLATION.

Not later than 6 months after the date of enactment of this title, the President shall submit to each House of Congress recommendations for legislation to reorganize the Executive branch of the Government to more effectively combat international drug traffic and drug abuse. In the preparation of such recommendations, the President shall consult with the Comptroller General, State and local law enforcement authorities, relevant committees of the Congress, and the Attorney General and the Secretaries of State, the Treasury, Transportation, Health and Human Services, Defense, and Education.

The CHAIRMAN. No other amendment to the bill are in order except the amendments contained in House Report 99-810, which shall be considered only in the order listed, and if ordered by the Member indicated in the report, shall not be subject to amendment or to a demand for a division of the question unless otherwise specified in House Resolution 541, and each amendment shall be debatable for the time indicated in House Report 99-810, equally divided and controlled by the proponent of the amendment and a Member opposed to the amendment.

AMENDMENTS OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Chairman, I offer amendments en bloc.

The Clerk read as follows:

Amendments offered by Mr. WRIGHT: Page 31, after line 7, insert the following:

SEC. 144. REPORTS TO CONGRESS REGARDING FOREIGN COOPERATION IN ILLICIT DRUG ERADICATION PROGRAMS.

The Secretary of State shall transmit to Congress, as part of the presentation materials for assistance programs proposed for each fiscal year, a full and complete report,

with respect to cooperation and progress made by each country proposed as a recipient of assistance, in carrying out illicit drug eradication programs.

Page 38, line 18, insert after "subsection (a)" the following: "and, provided it would not interfere with the performance of a military mission, other similar aircraft and radar aerostats."

Page 120, line 9, following "violation" insert the following: "sufficient to enable the Government authority to obtain access to or copies of such information pursuant to law".

Page 120, beginning in line 21, strike out "prohibit any financial institution or supervisory agency from providing" and insert in lieu thereof "apply when a financial institution or supervisory agency provides".

Page 163, line 6, strike out "or".

Page 163, line 9, strike out the close quotation marks and the period following and insert in lieu thereof "; or".

Page 163, line 9, insert the following: "(v) with respect to a particular practitioner registered at the Drug Enforcement Administration to conduct research using a controlled substance and to the extent not prohibited by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), only amounts of analogs used in that person's research."

Page 224, insert after line 13 the following:

Subtitle H—Miscellaneous

SEC. 671. ASSIGNMENT OF JUDGES.

It is the sense of Congress that the judicial branch of the Government should increase the exercise of its authority under chapter 13 of title 28, United States Code, to reassign Federal judges temporarily and otherwise provide additional Federal judges to district courts in districts with large backlogs of pending criminal cases arising out of drug enforcement efforts.

Page 224, insert after line 13 the following:

Subtitle H—Miscellaneous

SEC. 671. DRUG PARAPHERNALIA.

(a) OFFENSE.—It is unlawful for any person—

(1) to make use of the services of the Postal Service as part of a scheme to sell any item which constitutes drug paraphernalia; or

(2) to offer for sale and transportation in interstate commerce any item which constitutes drug paraphernalia.

(b) PENALTY.—Anyone convicted of an offense under subsection (a) of this section shall be imprisoned for not more than three years and fined not more than \$100,000.

(c) FORFEITURE.—Any drug paraphernalia involved in any violation of subsection (a) of this section shall be subject to seizure and forfeiture. Any such paraphernalia shall be delivered to the Administrator of General Services, General Services Administration, who may order such paraphernalia destroyed or may authorize its use for law enforcement or educational purposes by Federal, State, or local authorities.

(d) DEFINITIONS.—The term "drug paraphernalia" means all equipment, products, or materials of any kind which are used, intended for use, or designed for use, in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introduced into the human body a controlled substance in violation of the Controlled Substances Act (title II of Public Law 91-513). It includes, but is not limited to, items used, intended for use, or designed for use,

in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as:

(1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(2) water pipes;

(3) carburetion tubes and devices;

(4) smoking and carburetion masks;

(5) roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held by the hand;

(6) miniature spoons with level capacities of one-tenth cubic centimeter or less;

(7) chamber pipes;

(8) carburetor pipes;

(9) electric pipes;

(10) air-driven pipes;

(11) chillums;

(12) bongs;

(13) ice pipes or chillers;

(14) wired cigarette papers; or

(15) cocaine freebase kits.

(e) EVIDENCE.—In determining whether an item constitutes drug paraphernalia, in addition to all other logically relevant factors, the following may be considered:

(1) instructions, oral or written, provided with the item concerning its use;

(2) descriptive materials accompanying the item which explain or depict its use;

(3) national and local advertising concerning its use;

(4) the manner in which the item is displayed for sale;

(5) whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(6) direct or circumstantial evidence of the ratio of sales of the item(s) to the total sales of the business enterprise;

(7) the existence and scope of legitimate uses of the item in the community; and

(8) expert testimony concerning its use.

(f) EFFECTIVE DATE.—This section shall become effective 90 days after the date of enactment of this title.

Page 241, strike out lines 1 through 3 and insert in lieu thereof the following:

(1) the development, acquisition, and implementation of elementary and secondary school drug abuse education and prevention curricula which clearly and consistently teach that drugs are wrong and harmful;

Page 241, line 8, insert "(which teach that drugs are wrong and harmful)" after "programs".

Page 241, strike out lines 6 and 7 and insert in lieu thereof the following:

(3) family drug abuse prevention programs, including education for parents about the symptoms and effects of drug use;

Page 245, after line 3, insert the following new paragraph (and redesignate the subsequent paragraphs accordingly):

(2) develop, publicize the availability of, and widely disseminate audio-visual and other curricula materials for drug abuse education and prevention programs in elementary and secondary schools throughout the Nation;

have training or experience in drug addiction problems".

Page 267, insert after line 25 the following:

SEC. 907. NATIONAL STUDY OF DRUG ABUSE TREATMENT PROGRAMS.

The Secretary of Health and Human Services shall conduct, directly or by contract, a study of the nature and effectiveness of Federal, State, and local programs of drug abuse treatment (including programs to treat cocaine free base (known as "crack") addiction) and shall submit a report of the findings of such study to the President and to the appropriate committees of Congress not later than one year after the date of the enactment of this title.

Page 267, insert after line 25 the following:

SEC. 907. CONGRESSIONAL REQUEST THAT THE ENTERTAINMENT INDUSTRY TAKE CERTAIN STEPS TO ASSIST IN THE NATIONAL WAR AGAINST ILLEGAL DRUGS.

It is the sense of the Congress that, whereas illegal drug consumption and the trafficking of those illegal drugs is a major problem in the United States; whereas this problem is particularly prevalent among and harmful to the Nation's young people; whereas the values and mores portrayed in various forms of commercially produced entertainment have a profound effect on the attitudes of young people in this country, the entertainment industry should voluntarily refrain from producing material meant for general entertainment which in any way glamorizes or encourages the use of illegal drugs and the entertainment industry further is encouraged to develop films, television programs, records, and videos which encourage the rejection of illegal drug usage.

Mr. WRIGHT (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. GILMAN. Mr. Chairman, reserving the right to object, and I do not intend to object, but I ask consent to permit the gentleman from Texas [Mr. WRIGHT] to explain the amendments.

The CHAIRMAN. The Chair would inform the gentleman from New York [Mr. GILMAN] that there will be 10 minutes' debate on the amendments.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Chairman, it would be my intention to explain each of the 14 provisions contained, at least briefly, to clarify exactly what is involved in this amendment.

Mr. GILMAN. I thank the gentleman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. WRIGHT] will be recognized for 5 minutes and a Member opposed will be recognized for 5 minutes.

Mr. LUNGREN. Mr. Chairman, I am opposed to the amendment and wish to claim the 5 minutes.

The CHAIRMAN. The gentleman from California [Mr. LUNGREN] will be recognized at the appropriate time for 5 minutes.

The Chair now recognizes the gentleman from Texas [Mr. WRIGHT].

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. ENGLISH].

PERFECTING AMENDMENT OFFERED BY MR. ENGLISH

Mr. ENGLISH. Mr. Chairman, I ask unanimous consent for a perfecting amendment to title XII of the bill.

On page 333, line 26, the word "international" appears. This word was deleted in the Government Operations Committee because that section applies to all drug trafficking, not just international trafficking. The drafters of the Omnibus Act did not take note of the committee amendment. It should be corrected at this time, and I ask that it be stricken.

The minority is in complete agreement with this request.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

Mr. GILMAN. Mr. Chairman, reserving the right to object, while I do not object, I ask the gentleman from Oklahoma [Mr. ENGLISH] if he would explain this technical provision.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, this word was deleted in the Committee on Government Operations because it applies to all drug trafficking. This section of the bill applies to all drug trafficking, not just international trafficking. The drafters of the Omnibus Act evidently overlooked this particular provision and it should be corrected at this time.

For that reason, I am asking unanimous consent.

Mr. GILMAN. Mr. Chairman, I thank the gentleman and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. WRIGHT. Mr. Chairman, how much time have I consumed?

The CHAIRMAN. The gentleman from Texas has consumed 45 seconds.

Mr. WRIGHT. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this is a compilation of 14 different amendments offered by Democratic and Republican Members.

They are thought to be relatively noncontroversial. They require that a criminal offense will be made to use the Postal Service to sell drug paraphernalia. It expresses the sense of Congress that the Federal judicial branch should reassign judges temporarily to districts with large backlogs of drug cases.

It requires the Secretary of Education to develop and distribute audiovisual materials on drug abuse prevention to elementary and secondary schools.

It expresses the sense of Congress that the entertainment industry should refrain from producing programming which glamorizes drug use and should produce programs rejecting the use of drugs.

It adds medical and mental health officials to the list of those who would serve on the Council of Drug Abuse Education Prevention, as well as physicians and other health care professionals.

It allows the Department of Defense to loan additional aircraft and radar aerostats for the use in drug interdiction.

It requires the Health and Human Services to study the effectiveness of Federal, State, and local drug abuse prevention programs, clarifies that the information volunteered by banks under the money laundering statute will be sufficient to allow the Government to obtain a grand jury subpoena. It requires a report to Congress on the cooperation and progress of drug eradication by countries which receive U.S. aid. It requires that funds for local education projects will be used to support curricular and counseling programs to teach that drug use is wrong and harmful, and specifies that family drug abuse prevention programs include education of parents about the symptoms and effects of drug abuse.

□ 1110

There is one additional provision which will be discussed under the Morrison exclusion, and will be discussed by the gentleman from Connecticut and the gentleman from California.

Mr. LUNGREN. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I want to mention at the outset of this discussion that the majority leader, the gentleman from Texas [Mr. WRIGHT] has been most cooperative with the minority relative of some of the noncontroversial items.

This specific item, the one in question that we will be discussing here, was brought to our attention by way of a letter from the sponsor, the letter indicating that the item was not controversial in a straight forward basis. The leaders together accepted that as the case.

Needless to say, I believe without publicly saying so, the leader is probably embarrassed by this circumstance. I am disconcerted, because it interferes with our ability to work together.

Mr. LUNGREN. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the amendment in dispute, No. 5, is not noncontroversial, and is not technical in nature. It is anything but that. Unfortunately, I have to say with all sincerity that it is in part an anti-law-enforcement, pro-drug use amendment. I do not think it was drawn to be that; I do not think it was intended to be that, but that is in fact the interpretation of the concept that I received from the DEA, from the FDA, and from the State organizations of substance control authorities.

Now, all of those cannot be wrong. What this amendment says is, if you have an M.D. or Ph.D. after your name; and you have in any way a research connection with the FDA, even if it is with schedule 5, which is like with cough syrup, you can be involved in designer drugs that we have, in every other instance in this bill, put under schedule 1. That is the toughest restraints that we have.

Why? Because designer drugs are the new epidemic of drugs in this country.

Just today there is an article in the Washington Post about a Ph.D. who happens to be a laboratory chemist for the Navy, who is involved in the course of his work in manufacturing fentanyl analogs; that is, heroin analogs that are 2,500 times more potent than raw heroin on the streets.

Had that person had the knowledge, after this bill was passed with the Morrison amendment in it, and received a research registration from DEA under schedule 5, but then involved himself in creating a new heroin analog, he could not have been arrested nor stopped until he actually distributed it for money.

He could use it on himself, he could use it on his wife, he could use it on others; as long as he said he was doing it in his own research protocol, not following the schedule 1 protocol. That is the problem with this amendment.

This amendment makes a distortion of the entire designer drug bill, which is a part of the overall bill, the designer drug bill that I have been working for the last 2 years.

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, this is, in fact, a highly technical issue, and it has to do with making sure that in our very legitimate effort to criminalize the designer drug industry we do not criminalize legitimate research.

We have taken all drugs on schedules 1 and 2 and said all analogs of those drugs are to be treated as schedule 1 drugs. As a result of that proposed change, legitimate research permitted under current law might be made criminal.

It is one thing, and an important thing, to crack down on the designer drug industry. It is another thing to cut off, in an arbitrary fashion through the threatening use of criminal sanctions, legitimate research.

This amendment does not raise the kind of horrible specter that the gentleman from California [Mr. LUNGREN] has suggested. If refinements of this amendment are needed, they can well be worked out further in the legislative process of enacting this bill, and as the gentleman from California knows, we have worked hard to find satisfactory language and are willing to continue that kind of process in the future.

Mr. WRIGHT. Mr. Chairman how much time do I have remaining?

The CHAIRMAN. The gentleman from Texas [Mr. WRIGHT] has 1 minute remaining.

Mr. LUNGREN. Mr. Chairman, do I have 2½ minutes remaining?

The CHAIRMAN. The gentleman is correct.

Mr. LUNGREN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, quite simply, this is the Timothy Leary bailout amendment. This says, basically, that if you happen to be a psychiatrist that was of the kind that distributed MDMA, or ecstasy, to others until we made it illegal, we are going to allow you to continue doing that sort of thing.

The gentleman from Connecticut [Mr. MORRISON] says that I have brought up a horror that does not exist. Well, in fact, in response to my request about this type of amendment, Mr. Lawn, who is the Administrator of the DEA, had this to say:

Such activities have, in fact, occurred with regard to at least one such analog. This analog has been synthesized in unknown and undocumented facilities and administered in dosage forms of unknown and uncertain quality and quantity by a few physicians, in an apparently informal manner. This activity undoubtedly risks the health of those concerned.

The fact of the matter is, there are some few doctors and psychiatrists in this country who say they do not come under the FDA. Why? Because the FDA requires that you do animal studies for toxicity before you ever give it to humans; and if you have a human study, you do a blind study. You go through the proper protocol.

These doctors do not want to be under the thumb, as they say, of the FDA, because they would be required to do animal studies first, and then do absolutely scientific studies.

One of them testified to us that he should have the right to test it on

himself. He has also testified elsewhere that he has tested it on his wife, and there have been suggestions that others have used students.

We are creating an absolute loophole here for those who happen to have M.D. or Ph.D. behind their name, who have any registration with the DEA, to do any type of investigation they want even though we are saying for everybody else under every other circumstance, they are subject to schedule 1.

This is a terrible distortion of our whole effort. This is exactly the type of dual standard we have been trying to get away from. We have been trying to say that everybody is equal under the law with respect to drug abuse in this country, and this amendment, unfortunately, says everybody is equal except if you had Ph.D. or M.D. after your name.

Let us be very clear: We are talking about people dealing in psychedelic drugs. That is what we are talking about. That is what the one doctor who appeared before us, pleading his case, was talking about. He says we have a right to expand the horizons of everybody's perceptions. It is argued that we have an obligation to have the Government say there are certain scientific standards.

I would just remind my colleagues that coming out of the Nuremberg trials, we have the Nuremberg protocols with respect to research.

No. 1 on the list of protocol is that animal research should always be done before research.

I support the rest of the amendment, but this is a tragic flaw in this amendment, sending the wrong signal at the wrong time.

Mr. WRIGHT. Mr. Chairman, I yield myself the balance of my time to close debate.

Mr. Chairman, I am impressed by the concern expressed by the gentleman from California [Mr. LUNGREN]. There is a legitimate disagreement as to the intent and working of that provision. It was not the intention and is not the intention of the authors to do other than to permit legitimate research by legitimate researchers.

In order that we may be sure, I would ask that we vote aye on this entire bloc of amendments, there being so many good and beneficial and uncontroversial things contained therein; and I would assure the gentleman from California that I would ask the conferees to look with care into the wording of this portion of the amendment to make certain that it does not open a loophole of the type feared by the gentleman from California.

Mr. LUNGREN. Mr. Chairman, is gentleman will yield, I thank the gentleman for that offering. I am sorry that is the way we have to do it under the rule. I know the gentleman was

amenable to my unanimous consent to have it voted on separately; that was objected to.

At this time, Mr. Chairman, I submit for the RECORD three pieces of correspondence that I have received from various agencies regarding the bill:

U.S. DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION
Washington, DC, September 10, 1986.
Hon. DANIEL E. LUNGREN,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN LUNGREN: Thank you for your letter of August 26, 1986 concerning the important issue brought about by the clandestine synthesis and distribution of controlled substance analogs during recent years. The questions which you have set out in your letter raise complex issues which could be elaborated on at length. Nevertheless, I shall respond to them here as briefly as possible and provide such additional information or discussion as you may require hereafter.

First, let me state that I strongly urge the enactment of S. 1437, "The Controlled Substance Analogs Enforcement Act of 1985," a bill which has been carefully crafted with our participation to deal effectively with problems of illicit traffic while protecting the interests of legitimate industry and the research community.

In response to your first question concerning the appropriate schedule for these substances, I wish to point out that we are here concerned only with drugs of abuse which have no accepted medical use. With respect to these drugs, the Food and Drug Administration's procedures for establishing safety and effectiveness for any projected medical purpose have not been complied with. Therefore, should these substances be placed in any schedule other than Schedule I additional risks would result because of their extended availability for use in improperly controlled and speculative circumstances. Such activities have, in fact, occurred with regard to at least one such analog. This analog has been synthesized in unknown and undocumented facilities and administered in dosage forms of unknown and uncertain quality and quantity by a few physicians, in an apparently informal manner. This activity undoubtedly risks the health of those concerned.

It has often been observed that poor and undocumented research is worse than no research at all because so much careful study is then required to disprove dubious and unprofessional reports. The Schedule I classification is a safeguard against this in the controlled substances area because legitimate researchers must submit a scientific protocol for approval. This ensures that only those who are professionally capable to conduct such research have access to these drugs for that purpose. More than 2,000 such researchers are currently registered by DEA. If these analogs were to be scheduled in other schedules the disadvantages and risks become obvious from the foregoing. Moreover, this would create an anomaly within the drug control structure unintended by Congress and which has never previously occurred. Therefore, the answer to your second question is that there are no other instances in which an unapproved new drug with a high potential for abuse has been placed into Schedule II. Some special considerations have been made regard-

ing certain drugs because of treaty obligations.

Question three concerning the merit of special exemptions for research with psychedelics is an issue also within the purview of the Department of Health and Human Services. I am aware of no sound reason why this type of research should be exempted from the regular approval process required for other drugs. Also, it is clear that the Congress felt that, with regard to drugs with a high potential for abuse, the additional requirement of a special registration with DEA was also necessary. I believe this also satisfactorily responds to question four.

Finally, question five also raises a matter of health and research policy in which the Department of Health and Human Services possesses special expertise. Nevertheless, it is difficult to imagine how subjects participating in studies utilizing these drugs would be at less risk than in studies involving other classes of drugs since these drugs may have powerful effects on mood and personal disposition and, in some cases, are believed to cause long-term brain damage. It would appear that the risks could be very significant.

I hope this has answered your questions. As I have stated, this is a brief response concerning some very complex issues. As always, both my staff and I are available to discuss these issues in greater detail.

Sincerely,

JOHN C. LAWN,
Administrator.

NATIONAL ASSOCIATION OF STATE
CONTROLLED SUBSTANCES AUTHORITIES
Lexington, KY, September 4, 1986.

HON. DANIEL E. LUNGREN,
2440 Rayburn House Office Building, Wash-
ington, DC.

DEAR CONGRESSMAN LUNGREN: I am pleased to respond to a request for comment from your office and to have the opportunity to express concerns about possible amendments to federal controlled substance analog legislation relating to:

(1) exemption of DEA-registered practitioners in Schedules II-V to use (or conduct research with) Schedule I controlled substance analogs, including MDMA, without meeting any further research requirements under the Controlled Substances Act (CSA) or the Food, Drug and Cosmetic Act (FDCA), and

(2) movement of controlled substance analogs to Schedule II.

The following points are respectfully offered for you and your colleagues to consider:

(1) If, as proposed, a practitioner, licensed in a State and registered only for Schedules II-V under Federal Law, comes into possession of a substance that is controlled in Schedule I under that State law, the person could be exposed to criminal prosecution for unlawful possession. The likelihood that analogs would be placed in Schedule I by States is discussed in item 2, below. Exposure to State criminal prosecution would be an unintended consequence precipitated by the Federal government's exemption. This loophole in Federal law would have no parallel under State laws.

Some State laws enable practitioners to register as a researcher before using drugs in State Schedule I. But if the research subjects are humans, bonafide research protocols as well as animal studies would likely be required, not just an explanation of a hoped-for innovation in clinical practice as

appears to be the case with current so-called medical uses of MDMA.

If this exemption proposal should somehow survive the legislative process and be signed into law, I would recommend that an affirmative responsibility be placed on the person or researcher to file with the Drug Enforcement Administration (DEA) and the State a letter from the Food and Drug Administration (FDA) certifying that the proposed use of the drug under this exemption is "permitted under the FDCA."

(2) If, as proposed, analogs are placed in Federal Schedule II, absent any evidence of approval under the FDCA, you should be aware that it is likely that States will consider controlling these substances in Schedule I. This would happen because most States' uniform controlled substances laws (USCA) exclusively reserve Schedule I for those substances with "no accepted medical use in treatment in the U.S." According to a survey of the State Scheduling Agencies I conducted in June, 1985 (enclosed), eighty-seven percent of the forty-three States responding stated unequivocally that they rely on a definition of "accepted medical use" which means "lawfully marketed under the FDCA," and that "FDA approval of an NDA establishes this acceptance." The uniform act does not contain any provision which would allow these scheduling tests to be bypassed.

The States, in following a uniform standard derived from the CSA, could be placed in the untenable position of prohibiting, without any discussion, those activities which the Federal government sought to permit. And again, a practitioner in possession of a federal Schedule II analog would be exposed to criminal prosecution for a Schedule I violation at the State level.

(3) If, as proposed, Congress and subsequently the DEA, were to place substances in Schedule II-V which are not accepted under the FDCA, the distinction between Schedule I and Schedule II-V disappears. Further, the "accepted medical use" test would be rendered meaningless, as there would be IND drugs in Schedule I which would be much closer to approval than analogs in Schedule II. The integrity of the CSA would disintegrate because the scheduling tests for a criminal statute would become vague or perhaps altogether abandoned.

It has always been my understanding that a principal purpose of the Congress in enacting the FDCA was to protect the public health by assuring that the drugs that reach patients are safe and effective. These proposals apparently seek to circumvent or create a loophole in that principal and, in my opinion, establish a dangerous precedent and should be rejected. That some clinicians want to avoid applying for an IND to use new drugs on patients is not a widely held standard of medical practice in the U.S., and I urge you to consult with groups representing organized medicine, such as the American Medical Association.

Public policy should not be dominated by such an exceptionally narrow view of what is accepted medical use of a drug, no matter how loudly or forcefully the case is stated. Mechanisms exist to conduct research with Schedule I drugs and should be used. If there are problems with the mechanism it can be revised, but it should not be rejected.

Some of the issues raised by these possible amendments are the subject of a DEA administrative law proceeding in the matter of MDMA scheduling, to which I am a party, representing the State of Wisconsin, Con-

trolled Substances Board. These issues are also being discussed as the National Conference of Commissioners on Uniform State Laws drafting committee, to which I serve as an advisor, prepares the first complete revision of the UCSA since 1970. I believe that some of the issues may require clarification by the Congress, but not in the manner currently being discussed. I would be pleased to discuss these issues with you.

Thank you for the opportunity to comment. Please call on me if I can be of any assistance to you.

Very truly yours,

DAVID E. JORANSON,
President.

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
Rockville, MD, September 9, 1986.

HON. DANIEL E. LUNGREN,
House of Representatives,
Washington, DC.

DEAR MR. LUNGREN: I am pleased to respond on behalf of Commissioner Frank E. Young, to the questions raised in your letter of August 26, 1986. The response to your specific questions is enclosed. I would also like to provide some information from the perspective of the Food and Drug Administration (FDA) on the regulation of controlled substance analogs that have a potential for abuse.

The clinical investigation of controlled substance analogs does not differ from other classes of unapproved new drugs. A new drug is defined as a drug that is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under conditions prescribed, recommended, or suggested in the labeling that accompanies the drug. [21 U.S.C. 321(p)]. Courts have broadly interpreted this definition as calling for well-substantiated scientific evidence of the safety and effectiveness of a drug. Under this interpretation, most drugs are new drugs.

For the most part, controlled substance analogs are simply one subgroup of unapproved new drugs. Moreover, unlike many unapproved new drugs, controlled substance analogs produce alterations in mental state and have a potential for abuse.

We are unaware of any scientific basis to exempt these analogs from the established procedures designed to provide safeguards for the subjects of clinical research. These safeguards are embodied in the rules and regulations governing investigational new drugs (IND).

There is no scientific reason not to apply the new drug provisions of the Act to the investigation and use of controlled substance analogs. These requirements do not impose any inappropriate burdens on researchers. Moreover, placement of controlled substance analogs in schedule I of the Controlled Substances Act does not significantly affect research on the substance. Placement in schedule I does, however, ensure continued protection of the health and safety of research subjects and protection of the public from diversion of the substance.

In summary, the FDA's regulation of the development of new drugs applies to all drugs regardless of drug class. We are not aware of any valid reason for special exemptions or privileges for a select group of practitioners to use a particular class of unapproved substance analogs on patients without the safeguards already provided for in statute.

If we can be of any further assistance, please let us know.

Sincerely yours,

HUGH C. CANNON,
Associate Commissioner
for Legislative Affairs.

RESPONSE TO QUESTIONS CONTAINED IN
AUGUST 26, 1986 LETTER FROM THE HONOR-
ABLE DANIEL E. LUNGREN

1. What are the consequences of excluding unapproved new drugs with a potential for abuse and diversion, i.e. controlled substance analogs, from schedule I of the Controlled Substances Act (CSA)?

(a). What are the advantages and disadvantages to investigators?

(b). What are the advantages and disadvantages to society?

(c). What effect might this have on current scheduling of drugs and the CSA?

The placement of a substance in schedule I represents a finding by the Drug Enforcement Administration (DEA) that the substance: (1) has a high potential for diversion and abuse; (2) has no recognized medical use; and (3) has a lack of accepted safety for use of the substance under medical supervision. The use of a schedule I substance in humans is limited by the CSA to qualified investigators (researchers) who are registered with and specifically authorized by DEA to possess and use a specific substance. Registrants for other schedules do not need DEA's special permission to possess drugs in those schedules. Under this scheme, practitioners normally register possession of drugs in schedules II through V while researchers register for possession of specific substances in schedule I.

As noted above, a decision to grant a registration to an investigator/researcher to use a schedule I substance in humans is made by DEA. Registration is obtained by application which must include detailed information described in 21 CFR 1301.33 (copy enclosed) or a certification from the investigator that he has filed for an Investigational New Drug Exemption (IND) with FDA. Even if an IND has been filed, DEA requests FDA to determine the qualifications and competency of each health investigator requesting registration for a schedule I substance, as well as the merits of the research protocol, even if no IND has been filed. This information is given by FDA to DEA routinely. DEA's registration process and FDA's IND process are independent.

Your proposed placement of a controlled substance analog in a schedule of the CSA other than schedule I would nullify the requirement that investigators must apply for and obtain registration from the DEA to possess a controlled substance analog. This is a serious consequence because it would permit practitioners to have uncontrolled access for unrestricted use in patients of highly abusable substances for which no medical benefits has ever been shown. Another serious consequence could be the disruption to the established system for tracking the possession of controlled substance analogs and the consequent impairment of DEA's control over the distribution of these substances.

(1a) The advantages of not requiring investigators to register for possession of substances with specific abuse potential e.g., schedule I substances, which are currently restricted to researchers only, would:

Remove paperwork requirements necessary to register for possession of each substance with abuse potential;

Make such substances available to all practitioners, rather than limiting them to researchers; and

Reduce the accountability for use and/or distribution of such substances by practitioners.

Moreover, all practitioners would become researchers without any evaluation of their competency as investigators or merit of the research.

In addition to the fundamental regulatory problems discussed above, the proposed revision alluded to in your letter would be accompanied by the following disadvantages to investigators:

Increased civil liability arising from the use of abusable, potentially unsafe substances; and

Probable lack of access to Institutional Review Board evaluation or independent peer review, thereby being denied assistance and evaluation on whether the research is an adequate and proper study.

(1b) We are unaware of any advantages that the proposed revision would provide to society. The disadvantages to society would be:

The entire population would be exposed to the use of untested and unapproved drugs which are of unknown toxicity, potency, purity, and pharmacological effects;

There would be no requirement for patient/subject consent;

That would be a potential for the unrestricted availability and distribution of substances which could be abused; and

There would be an increase in the potential for drug diversion because of the disruption to the current tracking system.

(1c) The process of scheduling controlled substance analogs would be disrupted if these substances were automatically excluded from schedule I. The FDA, with the advice of the National Institute on Drug Abuse, makes recommendations about the scheduling of these substances as directed by the requirements of the CSA. The FDA's findings are based upon a set of analyses that consider the substance's relative potential for abuse and diversion, the medical and societal risks arising from such abuse and diversion, and whether the drug has a bona fide medical use. If a scientific and medical determination is made that a substance has a high potential for abuse and diversion and the substance in question is not approved by FDA, the Agency recommends that the substance be placed in schedule I. The automatic placement of an unapproved new drug (i.e., a drug without a recognized medical use) with a high potential for abuse and diversion in a schedule other than schedule I would, for nonscientific reasons, avoid this type of medical review and would be in conflict with the current regulatory scheme of the Controlled Substances Act [see 21 U.S.C. 812(b)] (copy attached).

2. Has an unapproved new drug with a high potential for abuse ever been placed in schedule II?

No. An unapproved substance has never been recommended by FDA for any schedule other than schedule I.

3. Is there any basis to grant individuals conducting research with psychedelic drugs special exemptions from the requirements of the Federal Food, Drug, and Cosmetic Act, supporting regulations, and enabling policies?

There is no reason to grant special exemptions from the requirements of the Food, Drug, and Cosmetic Act to investigators working with any class of controlled substance analogs, psychedelic drugs in particu-

lar. In the Agency's view, controlled substance analogs, in particular those that cause psychedelic effects, require enhanced rather than reduced regulatory attention. Furthermore, we are unaware of any consensus among psychopharmacologists, psychiatrists, neurologists or academic physicians that special efforts are required to promote the conduct of research with "psychedelic" drugs.

4. Specifically, is psychedelic drug research so important and useful, and encumbered under current laws and regulations, that it should be allowed to proceed outside the established rules for all other drug research?

It is difficult to imagine a situation in which psychedelic substances should be considered so important or useful that our usual protections should be reduced. In fact, the Agency believes that any such exemptions would be inappropriate and unjustified. Indeed, if there is a need to single out psychedelic drugs for special treatment, it is to impose additional controls, not to remove them. In addition to the unknown risks associated with the experimental use of any new drug, the experimental use of new psychedelic substances is, by definition, associated with the production of an altered mental state. Whether an altered mental state induced by a psychedelic drug will be beneficial, temporarily harmful, or permanently injurious cannot be reliably predicted. With respect to controlled substance analogs in general, we know of no reason to believe that subjects receiving them in investigations are at a lesser risk than subjects receiving other unapproved new drugs. Patients receiving unapproved analogs would be subject to as much if not greater risk if there is reduced regulatory controls.

From the Agency's perspective, and that of responsible investigators, the administration of any new substance to humans before it has been adequately characterized and tested for toxicity in animal studies is, in most cases, reckless and unethical. This is true even when the substances seem promising and the diseases are serious. Admittedly, if a patient were near death and a potentially life-saving experimental substance were available, a case might be made for using the new agent before animal testing was completed. In these cases, we are prepared to act quickly to allow treatment of particular individuals on an emergency basis. But the overall development of such a substance requires attention to needed animal data, good study design, careful assessment of effectiveness and safety, etc. Most studies under IND's proceed unencumbered; required submissions include chemistry and toxicologic data, protocols for clinical studies, periodic progress reports and reports of important adverse effects. Any responsible investigator would develop or obtain most of this data whether or not an IND existed.

5. Are subjects participating in studies using unapproved new drugs, i.e., controlled substance analogs, at any less risk than those involved in the study of any class of unapproved new drug? If so, why?

There is no basis for assuming that a new drug, by virtue of its being a controlled substance analog, will be any less toxic than drugs used in the treatment of, for example, heart disease or depression. The intended uses of a drug, or its collateral properties, do not predict its potential risk. Accordingly, the agency relies heavily upon the results of animal testing to estimate the potential risks associated with the proposed human testing of a new drug.

The unpredictability of drug associated risk is well known. Consider the recent example wherein a street chemist, attempting to synthesize an analog of meperidine, inadvertently made a product contaminated by N-methyl tetrahydropyridine (MPTP). The MPTP contaminant caused irreversible neurological injury among the addicts who used this particular "designer" drug. Examples of this sort may not be uncommon. Indeed, preliminary findings in animal studies suggest that the infamous "designer" drug MDMA, also known as "Ecstasy," may cause identifiable injury to brain tissue. These examples document why the Agency feels so strongly against granting anyone working with controlled substance analogs a special exemption from existing laws and regulations.

21 CFR 1301.33

§ 1301.33 Research protocols

(a) A protocol to conduct research with controlled substances listed in Schedule I shall be in the following form and contain the following information where applicable:

- (1) Investigator:
 - (i) Name, address, and DEA registration number, if any.
 - (ii) Institutional affiliation.
 - (iii) Qualifications, including a curriculum vitae and an appropriate bibliography (list of publications).
- (2) Research project:
 - (i) Title of project.
 - (ii) Statement of the purpose.
 - (iii) Name of the controlled substances or substances involved and the amount of each needed.
 - (iv) Description of the research to be conducted, including the number and species of research subjects, the dosage to be administered, the route and method of administration, and the duration of the project.
 - (v) Location where the research will be conducted.
 - (vi) Statement of the security provisions for storing the controlled substances (in accordance with § 1301.75) and for dispensing the controlled substances in order to prevent diversion.
 - (vii) If the investigator desires to manufacture or import any controlled substance listed in paragraph (a)(2)(iii) of this section, a statement of the quantity to be manufactured or imported and the sources of the chemicals to be used or the substance to be imported.
- (3) Authority:
 - (i) Institutional approval.
 - (ii) Approval of a Human Research Committee for human studies.
 - (iii) Indication of an approved active Notice of Claimed Investigational Exemption for a New Drug (number).
 - (iv) Indication of an approved funded grant (number), if any.
- (b) In the case of a clinical investigation with controlled substances listed in Schedule I, the applicant shall submit three copies of a Notice of Claimed Investigational Exemption for a New Drug (IND) together with a statement of the security provisions (as prescribed in paragraph (a)(2)(v) of this section for a research protocol) to, and have such submission approved by, the Food and Drug Administration as required in 21 U.S.C. 355(i) and § 130.3 of this title. Submission of this Notice and statement to the Food and Drug Administration shall be in lieu of a research protocol to the Administration as required in paragraph (a) of this section. The applicant, when applying for registration with the Administration, shall

indicate that such notice has been submitted to the Food and Drug Administration by submitting to the Administration with his DEA (or BND) Form 225 three copies of the following certificate:

I hereby certify that on _____ (Date), pursuant to 21 U.S.C. 355(i) and 21 CFR 130.3, I, _____ (Name and Address of IND Sponsor) submitted a Notice of Claimed Investigational Exemption for a New Drug (IND) to the Food and Drug Administration for:

_____ (Name of Investigational Drug).
 _____ (Date)
 _____ (Signature of Applicant).

(c) In the event that the registrant desires to increase the quantity of a controlled substance used for an approved research project, he shall submit a request to the Registration Branch, Drug Enforcement Administration, Post Office Box 28083, Central Station, Washington, D.C. 20005, by registered mail, return receipt requested. The request shall contain the following information: DEA registration number; name of the controlled substance or substances and the quantity of each authorized in the approved protocol; and the additional quantity of each desired. Upon return of the receipt, the registrant shall be authorized to purchase the additional quantity of the controlled substance or substances specified in the request. The Administration shall review the letter and forward it to the Food and Drug Administration together with Administration comments. The Food and Drug Administration shall approve or deny the request as an amendment to the protocol and so notify the registrant. Approval of the letter by the Food and Drug Administration shall authorize the registrant to use the additional quantity of the controlled substance in the research project.

(d) In the event the registrant desires to conduct research beyond the variations provided in the registrant's approved protocol (excluding any increase in the quantity of the controlled substance requested for his research project is outlined in paragraph (c) of this section), he shall submit three copies of a supplemental protocol in accordance with paragraph (a) of this section describing the new research and omitting information in the supplemental protocol which has been stated in the original protocol. Supplemental protocols shall be processed and approved or denied in the same manner as original research protocols.

CONTROLLED SUBSTANCES ACT (21 USC 812)

SCHEDULES OF CONTROLLED SUBSTANCES

SEC. 202. [812] (a) There are established five schedules of controlled substances, to be known as schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section. The schedules established by this section shall be updated and republished on a semiannual basis during the two-year period beginning one year after the date of enactment of this title and shall be updated and republished on an annual basis thereafter.

(b) Except where control is required by United States obligations under an international treaty, convention, or protocol, in effect on the effective date of this part, and except in the case of an immediate precursor, a drug or other substance may not be placed in any schedule unless the findings required for such schedule are made with respect to such drug or other substance.

The findings required for each of the schedules are as follows:

(1) SCHEDULE I.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has no currently accepted medical use in treatment in the United States.

(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

(2) SCHEDULE II.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.

(C) Abuse of the drug or other substances may lead to severe psychological or physical dependence.

(3) SCHEDULE III.—

(A) The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

(4) SCHEDULE IV.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

(5) SCHEDULE V.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule IV.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV.

Mr. WALKER. Mr. Chairman, I would just like to offer a word of explanation concerning a provision which was included in the en bloc amendment just adopted by the House. Included in the en bloc amendment is a provision which I have offered which calls on the entertainment industry to refrain from producing movies, music videos, and other entertainment products, which encourage or glamorize drug use, and it also calls on the entertainment industry to produce products which encourage our young people to say "no" to drugs. This language is identical to my legislation, House Joint Resolution 712, which has over one-half of the Members of this House as original cosponsors. It is my hope that the entertainment industry will take careful note of this action, and join in the war on drugs which this country must fight. The entertainment industry must realize that their movies and videos do have an impact on the values and perceptions of the people who watch

them, especially on our young people, and that it is imperative that drug use be portrayed realistically, as the destructive, addictive thing that it is, instead of glamorizing the use of dangerous drugs.

On a final note, I would like to commend the House for adopting this provision, and give a special thanks to the 200-plus Members of this House who agreed to become original cosponsors of the initial legislation. Their support for this bill was vital to its adoption in the omnibus drug package.

Mr. COUGHLIN. Mr. Chairman, today the House is considering an omnibus antidrug bill that is a sincere effort to fight the tremendous drug abuse and narcotics trafficking crisis that is plaguing our Nation. I have served as a member of the House Anti-Drug Task Force and seen the commitment and work that members and staffs have devoted to shaping this legislative effort. I believe the Nation is becoming increasingly aware of the seriousness of the drug-abuse problem and that the issue is touching every portion of our population. The attention of the media, national figures, and political leaders has elevated this issue to new heights, and it is certainly about time.

As a member of the Select Committee on Narcotics Abuse for the past 7 years, I have long been concerned with the dangers that drug abuse and narcotics trafficking pose to individuals and to society as a whole. In August 1985, I and several other members of the select committee, visited South American countries where we reviewed the status of illicit narcotics production and trafficking. Having visited Bolivia, Peru, and Colombia and discussed the issue with Presidents Paz, Garcia, and Betancur, I am convinced that the laboratories are the vulnerable choke points of the cocaine trade. I applauded the decision of the administration earlier this summer to assist the Government of Bolivia in eliminating cocaine laboratories. Crop substitution efforts in these South American countries are difficult and expensive; coca is grown by poor campesinos in remote areas, and it is difficult to outbid narcotics traffickers.

During that South American experience I also got a firsthand and very realistic view of just how difficult a task we face in narcotics interdiction. Our military and intelligence efforts prove costly and are not nearly effective enough to make a dent in the surge of drugs pouring into this country every day. The interdiction of cocaine shipments to the United States is also failing because of the drug's small bulk and high concentration.

I am convinced that we devote a disproportionate share of our resources to the supply side of the narcotics trade—to foreign crop eradication, interdiction at or beyond our borders,

and law enforcement efforts to apprehend drug traffickers in the United States. I do not denigrate these efforts, but too much illegal money is involved to be able to predict success.

In my 18 years of experience, too little of our resources have been devoted to the demand side of the equation—toward drug-abuse education. We must increase public awareness and provide drug-abuse education particularly to our impressionable youth in their formative years. Our elementary and secondary school students must learn that drugs are harmful. We must dispell the myth that getting high is just a harmless feeling of euphoria. We have increasing evidence that cocaine and its derivative crack are highly addictive and can kill.

Last month in the Labor, HHS and Education appropriations bill, I offered a successful amendment to transfer money to the Secretary of Education's discretionary fund. I established legislative history surrounding this money asking that it be used by the Department of Education for the production, publicity, and distribution of a series of audiovisual aids. These films should be geared toward elementary and secondary school students and distributed to every school in the country to enhance a drug abuse curriculum.

Today I have asked to have included under title VIII, the Education and Labor portion of the omnibus drug bill, this very same concept. Under section 831, "National Programs of Drug Abuse Education and Prevention," I have asked that the Secretary and Department of Education be required to develop, publicize the availability of, and widely disseminate audiovisual and other curricula materials for drug abuse education and prevention programs in elementary and secondary schools throughout the Nation.

I believe that the audiovisual medium is a very effective and influential way to reach today's youth. Utilizing information and situations that are relevant to their lives, that is factual and realistic, is essential if we are to provide quality educational materials for students to learn from, and teachers to utilize effectively.

It is imperative that the Department of Education take responsibility and become involved in this capacity to help lessen the demand for illegal drugs in this country. We have got to make a national commitment to drug-abuse education and there isn't a more appropriate and necessary place to begin this national initiative.

For awhile it appeared as though the Department was not going to become involved in the drug issue except to take a zero-tolerance stance, kicking all drug users and dealers out of the schools and into the streets. I agree that we should not tolerate drugs and that we should enforce our

convictions especially in the schools. Education can, however, be a more powerful weapon against drug abuse.

It encourages me to see that the Secretary of Education and the Department have indicated that they will be participating and coordinating drug-abuse education and prevention programs. I believe that a series of drug-abuse prevention films put out by the Department of Education would be a valuable contribution to any anti-drug-abuse curriculum.

By learning and becoming more aware, our children will be given the power of choice—the choice to say no to drugs, and to know that they are doing the right thing.

Mr. RICHARDSON. Mr. Chairman, first, I would like to state my strong support of this legislation. The evidence is clear—we have a very serious problem with drug abuse in this country. Something must be done to address its causes and to promote prevention and rehabilitation. I believe that this legislation takes a significant first step toward solving the drug crisis in this country. I would like to commend the majority leader for his long and tireless work on this important legislation.

It is my understanding that the Rules Committee has allowed an amendment of mine to be offered en bloc. I thank the Rules Committee for this opportunity. My amendment is simple. It ties U.S. foreign assistance to the drug eradication efforts in foreign countries. This is accomplished by calling upon the President to submit to the Congress a full report of the progress achieved by each country proposed for assistance in that country's illicit drug eradication programs. This report must be submitted prior to consideration of request for foreign assistance programs for each fiscal year.

An integral part of developing a comprehensive program to head off the growing drug crisis in this country is addressing the problem at the source. We must look at where the drugs are being grown, produced, and trafficked. We must clearly know which governments are being cooperative in addressing this problem and which governments are not. This is the kind of long-term approach we need. We have an obligation to ensure that the U.S. taxpayers dollars are not used to support the growth, manufacture, production, and trade of illicit drugs which have such an adverse consequence here. I urge my colleagues to accept my amendment and to support this legislation, which goes a long way toward stopping a very serious crisis in this country.

Mr. LEVINE of California. Mr. Chairman, I am offering an amendment in the package here today which would ban the mail order sales of drug paraphernalia. Conviction of selling

drug paraphernalia would result in imprisonment of up to 3 years and a fine of not more than \$100,000. The amendment also provides for the seizure and forfeiture of drug paraphernalia being used for sale in interstate commerce. If passed, this legislation will end the sale of drug paraphernalia through the mails.

Drug abuse is one of the most serious problems facing our Nation. It is a drain on our economy. It contributes to violent crime. It ruins the lives of our young people. Although drug abuse cuts across ethnic, class, and age groups, I am particularly concerned about the high rates of abuse among young people. According to estimates by the National Institute on Drug Abuse [NIDA] the drug abuse rates among America's youth are among the highest found in any developed country in the world. Nearly two-thirds of all high school seniors in 1984 had tried an illicit drug before graduation; 40 percent had tried a drug other than marijuana. And at least 1 in every 20 high school seniors is smoking marijuana on a daily basis. Most shocking however, is the early age at which children are experimenting with drugs. According to NIDA, 32 percent of high school students graduating in 1984 had experimented with marijuana before entering high school.

In fact, for most illegal drugs, including inhalants, barbiturates, nitrites, heroin, PCP, amphetamines, methaqualone, and tranquilizers, between 40 and 50 percent of the eventual users initiated use prior to high school.

Among the total population, it is estimated that more than 20 million Americans use marijuana on a regular basis and approximately 8 to 20 million are regular cocaine users.

The sale of illicit drugs grossed an estimated \$110 billion in 1984. The cost of prevention, treatment, and law enforcement efforts related to drug abuse approached \$100 billion.

The drug paraphernalia industry both glamorizes the use of illegal drugs and contributes to the problem of drug abuse. It has been estimated that this industry produces more than \$3 billion annually.

The open sale of drug paraphernalia misleads many young Americans to believe that drugs are acceptable to use. Advertisements in catalogs touting the paraphernalia ignore the serious consequences of drug abuse—health risks, addiction, progression to stronger drugs—and instead sell the idea that drug use is a normal and acceptable activity. A further danger, again especially for young people, is the idea that if drug paraphernalia can be openly sold through the mails, then society is not serious about enforcing drug laws, that the health risks are not really so great, and that the legal consequences are not serious.

Our children are victims of drug abuse while a few manufacturers profit from open trade in drug paraphernalia.

Dr. Carlton Turner, Director of the White House Office on Drug Abuse Policy, stated at the annual Conference of the National Federation of Parents for a Drug-Free Youth that "it is now time for a National Paraphernalia Act to be passed." Banning the sale of drug paraphernalia through the mail will help in the effort to end drug abuse by reemphasizing that society is completely opposed to any glamorization or acceptance of dangerous drug use.

I first became concerned with the issue of drug paraphernalia sales as a member of the California State Legislature. There I sponsored the first drug paraphernalia bill to pass the California assembly and be signed into law. To date a total of 38 States have passed laws, similar to this amendment, banning the sale of drug paraphernalia. Although State laws have been successful in closing down local headshops, paraphernalia dealers are circumventing these laws and continuing their illicit sales through the mails. My amendment seeks to shut this final loophole.

This amendment is identical to legislation I introduced last year with the distinguished chairman and ranking minority member of the Select Committee on Narcotics Abuse and Control. This legislation received wise bipartisan support and has been cosponsored by 70 Members of this body. Hearings on this legislation were conducted by the Subcommittee on Crime.

Mr. Chairman, representatives from the tobacco industry have expressed some concern that this amendment might be misconstrued by some to ban the mail order sales of tobacco pipes. This amendment clearly is not intended to include traditional tobacco pipes in the ban on drug paraphernalia. I would like to highlight three sections of the amendment which make clear the intent of this language. First, section (e), the evidence section of this amendment states that "in determining whether an item constitutes drug paraphernalia * * * the following may be considered" and the amendment lists eight items. Item 5 states that among the factors to be considered is "whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products." In other words, distributors of tobacco pipes are not to be included in this ban.

Second, section (d), the definition section of this amendment states that "The term 'drug paraphernalia' means all equipment, products or materials of any kind which are used, intended for

use, or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or other introducing into the human body a controlled substance in violation of the Controlled Substances Act." Since tobacco is not a substance on the Controlled Substances Act, tobacco pipes clearly are not included in the definition of drug paraphernalia.

Third, also under section (d), this amendment states that the definition of drug paraphernalia "includes, but is not limited to, items used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, or amphetamines into the human body." Again, tobacco is not included on this list and although the list is not limited the intent nonetheless is clear, drug paraphernalia consists only of items used with illegal drugs.

In addition to highlighting the intent of these three sections, I would like to state explicitly for the record that the intent of this amendment is not to interfere in anyway with the sale of tobacco pipes. Let me also say I assured my distinguished colleague from Ohio, Congressman REGULA, who has called me regarding this issue, that the intent of this amendment is not to penalize pipe tobacco manufacturers or sellers, but rather this language seeks only to halt the sale of drug paraphernalia.

The legal and easy availability through the mails of drug paraphernalia intended and designed for use with controlled substances is antithetical and detrimental to the goal of ending the abuse of drugs. In the midst of the war against illicit drug use, we are allowing these mail order profiteers to glamorize the illegal use of drugs.

I urge my colleagues to support these amendments.

The CHAIRMAN. All time has expired.

The question is on the amendments offered by the gentleman from Texas [Mr. WRIGHT].

The amendments were agreed to.

The CHAIRMAN. Under the rule, amendment No. 15 will be in order.

AMENDMENT OFFERED BY MR. SMITH OF FLORIDA

Mr. SMITH of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Florida: Page 23, insert after line 19 the following:

(d) REWARD CONCERNING JORGE LUIS OCHOA VASQUEZ.—It is the sense of the Congress that the authority of section 36(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(b)), as amended by section 502(a) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399; enacted August 27, 1986), should be used expeditiously to establish a reward of up to \$500,000 for informa-

tion leading to the arrest or conviction of Jorge Luis Ochoa Vasquez for narcotics-related offenses.

Mr. SMITH of Florida [during the reading]. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

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Mr. GILMAN. Mr. Chairman, I request equal time.

The CHAIRMAN. Is the gentleman opposed to the amendment?

Mr. GILMAN. Mr. Chairman, I am in support of the amendment.

The CHAIRMAN. The gentleman will be recognized for 5 minutes in opposition to the amendment.

Under the rule the gentleman from Florida [Mr. SMITH] will be recognized for 5 minutes and the gentleman from New York [Mr. GILMAN] will be recognized in opposition for 5 minutes.

The Chair now recognizes the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I believe that this amendment is not controversial. It deals with a matter that occurred after the Foreign Affairs Committee's markup of the antidrug bill. This amendment must be offered now if the House is to address these troubling events.

This amendment to section 126 of the bill deals with narcoterrorism. I propose a new section (d) which would recommend that the administration approve a reward of \$500,000 for information leading to the arrest or conviction of the notorious drug trafficker Jorge Ochoa.

Since a number of my colleagues have asked me who Jorge Ochoa is, I'd like to provide a little background. In 1984, Mr. Jorge Luis Ochoa Vasquez was indicted in Miami for smuggling 1,500 kilograms of cocaine into the United States through Nicaragua. The indictments resulted from testimony—and pictures—provided by Barry Seal, a pilot and drug smuggler working for the DEA. Mr. Seal had indicated that Ochoa personally directed Seal to a Managua airport where Frederico Vaughan, an aide to Interior Minister Thomas Borge, and other Sandinistas helped load the cocaine into the plane. Pictures of this operation have been shown on national television. You may recall that Mr. Seal was murdered in Louisiana earlier this year, and Mr. Ochoa is suspected of having a hand in the murder.

In 1984, Ochoa was arrested in Spain. The United States and Colombia both sought extradition, but Ochoa was extradited to Colombia on a bill importing charge. In August 1986, a Colombian judge released Ochoa before the latter could be tried

on narcotics trafficking charges. Ochoa has since dropped out of sight. According to press reports, the judge was ousted and is under investigation.

I sponsored the provision of the antiterrorism law (Public Law 99-239) that authorizes such rewards, and I believe that the administration should use that authority to try to catch one of the "top 10" traffickers in the Western Hemisphere.

This amendment does not add to the bill. I hope that the committee will support it.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I am happy to yield to the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Chairman, on our side for the committee, we think it is a very good amendment. I commend the gentleman for his leadership. We accept the amendment.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield briefly to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding.

Mr. Chairman, I want to say very quickly I comment the gentleman for his amendment. It is an outstanding amendment.

I also want to commend the gentleman for his fight in the war on drugs.

Mr. SMITH of Florida. I thank the gentleman for his comments.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Florida has 2 minutes remaining.

The gentleman from New York [Mr. GILMAN] is recognized for 5 minutes.

Mr. GILMAN. Mr. Chairman, I regret that due to time constraints that we have to utilize this procedure in this manner. I am not opposed to the measure, Mr. Chairman, and I rise in support of the measure, the amendment offered by the gentleman from Florida [Mr. SMITH].

Mr. Chairman, Colombia has been shaken in recent years by the extraordinarily bold, ruthless actions of its narcotics traffickers. They assassinated the Colombian Minister of Justice and then, adding insult to injury, killed the judge who was investigating the murder. The perpetrators of that murder went a step further, offering to pay off the nation's multibillion-dollar foreign debt if they would be granted amnesty.

As noted by the gentleman from Florida [Mr. SMITH] a key narcotics kingpin Jorge Ochoa, was recently—outrageously—released by a Colombia judge. The Smith amendment expresses the sense of Congress that the administration should place a price of \$500,000 on Ochoa's head, using the

authorities provided in Public Law 99-239 to establish rewards for the capture of important narcotics traffickers.

The gentleman's efforts in this regard are highly appreciated on this side of the aisle, as are all his efforts as chairman of the Foreign Affairs Committee's Task Force on International Narcotics Matters, as an active member of the Select Committee on Narcotics Abuse and Control, and as an active member of the Committee on the Judiciary.

Accordingly, I urge the adoption of the gentleman's amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], our minority leader.

Mr. MICHEL. I thank the gentleman for yielding.

Mr. Chairman, I certainly do not intend to oppose the amendment, but I only take this opportunity, without asking unanimous consent for the opportunity to proceed under another order, to compliment the majority leader for the manner in which we have resolved the last group of amendments en bloc. We both recognize that in our speed to put together as expeditiously as we possibly could a package here that there might be an occasion, as just happened, where with a little bit more care and time we could have avoided the conflict. I appreciate the fact that notwithstanding the misunderstanding we were able to also avoid scuttling the balance of those amendments in the package that were good and deserving of our support. I appreciate the conciliatory attitude on the part of those, particularly Mr. LUNGREN, who feel so strongly about this issue. It was worthwhile to have the legislative history evolve here as it did on the floor of the House, so that it can be considered at some later date when surely the other body will have to be taking up this piece of legislation before it ever becomes law.

Mr. GILMAN. I thank the minority leader for his remarks.

Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Florida. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. GARCIA].

The CHAIRMAN. The gentleman from New York [Mr. GARCIA] is recognized for 2 minutes.

Mr. GARCIA. I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to engage the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL] in a colloquy.

Mr. Chairman, I am interested in seeking clarification from you regarding the amount of assistance this bill provides for Latin America. How much of the international assistance provid-

ed for in this bill is expected to be allocated to Latin America?

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Florida [Mr. FASCELL], the chairman of the committee.

Mr. FASCELL. Mr. Chairman, title I of the bill authorizes \$48 million in new appropriations for foreign drug interdiction and eradication efforts, and increases the current authorization of international narcotics control from \$57.5 million in fiscal year 1987 to \$65.4 million. It also authorizes an additional \$35 million for international narcotics control purposes if the President requests the appropriation of such funds, and details how such funds would be used. The only specific geographic earmark in the bill is for \$10 million in already authorized foreign military assistance funds for the lease or loan of aircraft for narcotics eradication and interdiction efforts, of which half must be used in Latin America.

Mr. GARCIA. Is it the intent of this legislation that the bulk of these new assistance funds be directed toward drug interdiction and eradication efforts in Latin America?

Mr. FASCELL. That is indeed our intention. There is a very clear consensus in Congress and in the administration that our efforts as a nation must be directed at the interdiction and eradication of cocaine production in Latin America, which is the source of all illegal cocaine coming into this country.

Mr. GARCIA. Which Latin American countries do you believe are helping us the most with the cocaine problem, and should they deserve receiving the majority of our funds because of their cooperation?

Mr. FASCELL. Clearly, Ecuador is one of the Latin American countries that is cooperating the most with United States authorities to interdict and eradicate the coca problem. As a result, Ecuador should be one of the principal beneficiaries of our international drug assistance funds. I believe we must support them as long as they are willing to help us in this fight.

And I feel the same way about any other country.

The CHAIRMAN. All time has expired.

Mr. FASCELL. Mr. Chairman, will the gentleman from New York [Mr. GILMAN] yield time to this side so that we may complete our statement?

The CHAIRMAN. The gentleman has yielded back the time, and there is no more time remaining.

Mr. GILMAN. Mr. Chairman, may I reclaim my time?

Mr. MICHEL. Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. GILMAN] be permitted to reclaim his time.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from New York [Mr. GILMAN] is recognized for 2 minutes.

Mr. GILMAN. Mr. Chairman, I am pleased to yield that 2 minutes to the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs.

Mr. FASCELL. I thank the gentleman for yielding the time to me.

Mr. Chairman, likewise, the Government of Ecuador, under the leadership of President Febres Cordero, has demonstrated vigorous regional leadership in the struggle against drug trafficking and illicit narcotics. Ecuador has promoted regional cooperation and vigorous law enforcement against the illicit coca trade, and is willing to do more if we help them with additional assistance.

And I think that is the kind of principle of philosophy that we ought to have with all the Latin countries.

Mr. GARCIA. Mr. Chairman, if the gentleman will yield, I thank the gentleman for his comments.

Mr. Chairman, since taking office in August 1985, President Victor Paz Estenssoro of Bolivia has made very encouraging strides in addressing the illicit cocaine traffic in his country.

Through the end of July 1986, the Government of Bolivia has impounded 3,705 kilos of cocaine, which exceeds the amount impounded in all of 1985. This is a very impressive accomplishment, and one we should continue to promote and support.

As a result of the recent cocaine raids in Bolivia undertaken by the United States and Bolivian Governments, the average coca leaf price in that country has dropped from \$700 per 100 lbs. (during the first half of 1985) to \$20 today. Seven labs with a weekly production capability of 11,000 pounds of cocaine paste were found and destroyed. The DEA reports that these raids have virtually halted the production of cocaine in Bolivia. Fifteen drug traffickers, of which three are considered major dealers, were arrested and will be tried shortly.

The Government of Bolivia has made a public commitment to eradicate illegal cocaine production in Bolivia under a 3-year plan to be developed bilaterally between our two countries. The objectives of this plan include the destruction of all cocaine-refining laboratories in the country, the destruction of all past-producing laboratories, the reduction of coca leaf production by 140,000 tons by eliminating 55,000 coca-producing hectares and introducing substitute crops in these areas, and other related projects.

The recent United States-Bolivian raids represent an impressive first step by Bolivia to eliminate the cocaine problem, and clear evidence of President Paz Estenssoro's serious commitment to this goal. For it represents a tremendous challenge to Bolivia to achieve, combining economic, social, political, and logistical difficulties of the highest order. Bolivia

is the poorest country in South America, and simply does not have all of the financial and technical means to do the job alone. The United States must recognize Bolivia's bold efforts toward drug eradication and support their actions with sufficient economic and political assistance to achieve their goal.

The CHAIRMAN. All time has expired on this amendment.

The question is on the amendment offered by the gentleman from Florida [Mr. SMITH].

The amendment was agreed to.

The CHAIRMAN. Pursuant to the order of the House of September 10, 1986, amendment No. 22 by the gentleman from Florida [Mr. SMITH] is now in order.

AMENDMENT OFFERED BY MR. SMITH OF FLORIDA

Mr. SMITH of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Florida: Page 34, line 7 strike out "MURDER OF DEA AGENT CAMARENA" and insert in lieu thereof "TORTURE AND MURDER OF DEA AGENTS".

Page 34, line 17, strike out "and".

Redesignate paragraph (2) as paragraph (3).

Page 34, insert after line 17 the following: (2) has fully investigated the 1986 detention and torture of Drug Enforcement Administration agent Victor Cortez, Junior, and

Page 34, line 19, after "murders" insert "and those responsible for that detention and torture".

Mr. SMITH of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. SMITH] will be recognized for 5 minutes and a Member opposed thereto will be recognized for 5 minutes.

Mr. GILMAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New York [Mr. GILMAN] will be recognized for 5 minutes after the gentleman from Florida [Mr. SMITH] is recognized.

The Chair recognizes the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the Chair.

Mr. Chairman, I want to take this opportunity to thank the gentleman from New York [Mr. GILMAN] as the cochair of the International Narcotics Task Force of the Committee on Foreign Affairs, who has been a great help in putting this bill together, and certainly all the amendments thereto.

Mr. Chairman, I believe that the amendment is not controversial. It deals with a matter that occurred after the Foreign Affairs Committee's

markup of the antidrug bill. This amendment must be offered now if the House is to address these troubling events.

The amendment to section 161(a) establishes a second condition on the \$1 million that is being withheld from drug assistance to Mexico. The bill already withholds these funds until those responsible for the torture and murder of DEA agent Enrique Camarena Salazar are brought to justice. Unfortunately, we have been confronted by yet another atrocity against a DEA agent. While carrying out his duties in Guadalajara, Victor Cortez was kidnapped by Mexican police officials and brutally tortured. It was a repeat of the Camarena case: The same city, same police unit, and so forth. Only this time our agent was fortunate enough to be released with his life.

I believe that justice must be served by the effective prosecution of those responsible for both the Cortez kidnapping and the Camarena murder. I, therefore, propose that we also condition the \$1 million on action against the Cortez kidnapers.

This amendment does not add money to the bill. I hope that the committee will support it.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Chairman, we have examined this amendment, we think it is a good amendment, and we are prepared to accept it on this side.

Mr. SMITH of Florida. I thank the gentleman, and I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I regret that the procedure requires that I had to rise in opposition to save time and I withdraw my opposition and rise in support of the amendment by the gentleman from Florida [Mr. SMITH].

Mr. Chairman, I cannot think of a more shocking incident in recent months in our fight against narcotics than the revelation last month that even as American and Mexican officials at the highest levels were meeting on the problem of United States-Mexican cooperation in the struggle against narcotics, an American DEA agent was being tortured by Mexican policemen in an effort to subvert our cooperative relationship with Mexico.

I fully agree with the gentleman that we need a lever to encourage the Mexican authorities to act effectively to bring the torturers of DEA agent Victor Cortez, Jr., to justice, and I support his amendment to condition the

release of a symbolic \$1 million of our antinarcotics assistance funds on a Presidential certification that Mexicans have commenced an effective prosecution of his torturers, as well as the effective prosecution of the murderers of DEA agent Enrique Camarena Salazar and his pilot, Alfredo Zavala Avelar.

Mr. Chairman, I commend the gentleman from Florida for his efforts to focus attention on the Cortez outrage. I joined with him in writing in the strongest terms to the Mexican authorities after the incident came to light. The minority accepts this amendment and I urge its adoption.

□ 1135

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I just want to say that I commend the gentleman from Florida. As a Congressman who had Enrique Camarena for a constituent and who appreciated his services for the DEA, I appreciate the gentleman and the ranking member on the select committee and their statements.

I think it is very important that we send a strong message to Mexico, because I understand that some of the same people in the Mexican authorities, some of the same authorities, were involved in torturing this latest drug enforcement agent. They were the same people who participated in the torture and at least apprehension of Enrique Camarena. I think the seriousness of this must be made clear to the Mexican Government.

Mr. Chairman, I appreciate the efforts of both gentlemen.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for his statement.

I might note that it has now been reported that the legal proceedings in Guadalajara concerning the injuries against DEA agent Victor Cortez have been suspended because the judge does not have enough evidence to order the arrest of 11 Jalisco judicial policemen who are presumably the ones responsible for the assault. The Mexican authorities state that they now need a declaration by Cortez, but he has not made one, and that seems to be the latest status of this investigation by the Mexican authorities.

Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. YATRON].

Mr. YATRON. Mr. Chairman, I rise in strong support of the Smith amendment and in support of title I, as reported out by the Foreign Affairs Committee.

Mr. Chairman, this very important amendment is designed to encourage the Mexican Government to bring to justice those persons responsible for the torture of Agent Victor Cortez and the murder of Agent Camarena.

Mr. Chairman, if the criminal justice systems in a country where our agents are working do not provide legal recourse, as we have seen with these two cases, there will be greater temptation on the part of those who don't respect the law, including drug traffickers, to commit heinous crimes against our people.

I strongly urge our colleagues to support this amendment.

Mr. Chairman, as a member of the Foreign Affairs Committee and as an original cosponsor of this title, I want to commend Chairman FASCELL, Congressman BROOMFIELD, and members of the committee for bringing this important piece of legislation to the floor.

I rise in strong support of H.R. 5352, to combat international narcotics trafficking.

As we all know, the widespread abuse of illegal drugs today has become a threat to our civilization as we know it. Drug abuse has permeated our country and the world. The International Narcotics Control Act of 1986 is a comprehensive plan to arrest the spread of this cancer.

Mr. Chairman, I strongly support the entire bill, and I would like to take a few moments to address three provisions of this measure which I find of particular importance.

First are the U.N. activities relating to narcotics control. This bill calls for greater international coordination and additional contributions by other countries to the U.N. Fund for Drug Abuse and Control, and directs the United States to give high priority to U.S. participation in the U.N. International Conference on Drug Abuse and Illicit Trafficking to be held in June 1987.

Section 503 calls for a study of the effectiveness of U.N. entities relating to narcotics prevention and control, including an evaluation of the potential savings and greater coordination that might be attained by consolidating various U.N. agencies and affiliations. The final section of this title urges a speedy completion of the proposed new narcotics control convention and calls for more effective implementation of existing conventions.

As a vice-chairman of the Mexican-American Interparliamentary Conference, I strongly support the provision regarding Mexico. Section 602 urges the President to begin negotiations for the creation of a United States-Mexico Intergovernmental Commission on Narcotics. This Commission proposal was originally approved by the 26th

Mexico-United States Interparliamentary Conference.

Finally, Mr. Chairman, I would like to address the modification of the Mansfield amendment, which would prohibit U.S. officials from being present during narcotics raids overseas. Section 203 waives this prohibition in the case of a foreign country where the Secretary of State determines that it would be in the U.S. national interest, and would not be detrimental to U.S. relations with that country. The Secretary is to keep the Congress apprised of those activities carried out by U.S. employees pursuant to those determinations. I strongly support this section, as the Mansfield amendment has had a limiting effect on the ability of U.S. officials to monitor antinarcotics actions abroad.

In conclusion, this legislation will strengthen and enhance our ability to confront the menace of global drug abuse, which threatens the welfare of virtually every nation. I strongly urge my colleagues to support this bill.

I also want to commend the Public Works and Transportation Committee and Chairman JIM HOWARD for including in their section of the bill increased penalties against pilots convicted of drug smuggling. Current laws revoke a pilot's license for only 1 year. This bill will increase pilot license revocation fivefold. I think this will be very helpful in providing sufficient punishment and deterrence to drug trafficking by pilots. I commend my colleague from New Jersey for his leadership on this issue.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. GILMAN. Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania [Mr. YATRON] be granted 1 additional minute.

The CHAIRMAN. Under the rule, the Chair would advise the gentleman from New York [Mr. GILMAN] that the rule confines the gentleman to 1 remaining minute.

Mr. SMITH of Florida. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from Florida [Mr. SMITH] has 1 minute remaining.

Mr. SMITH of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I wish to rise to commend the gentleman from Pennsylvania [Mr. YATRON] for his long-standing and diligent efforts in battling narcotics. As cochairman of our Interparliamentary Conference between the United States and Mexico, the gentleman from Pennsylvania has done an

outstanding job of bringing this issue to the floor of that interparliamentary body in seeking greater cooperation between the United States and Mexico in combating narcotics trafficking and abuse.

Mr. SMITH of Florida. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, let me close by saying first of all that I want to commend the gentleman from Pennsylvania, who not only as the vice chair of the Interparliamentary Conference, but also as the chairman of the Human Rights Subcommittee of the Committee on Foreign Affairs, has tried desperately to get those countries to battle narcotics trafficking as well.

I also want to take this opportunity to tell the Members in this Chamber that this is the kind of thing we must continue to do if we are going to fight the war on drugs worldwide. Whatever leverage we have must be used.

One hundred and three people have been arrested in the Camarena, but in a year and a half, not one has been brought to trial, no indictments, nothing. This is the way to proceed with foreign countries. Use the leverage we have. This is the kind of thing that is going to bring eventual success.

Mr. Chairman, I urge the committee to adopt the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SMITH].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment 16 is in order.

AMENDMENT OFFERED BY MR. BENNETT

Mr. BENNETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BENNETT: Page 41, strike out line 23 through line 5 on page 42 and redesignate the succeeding subsections accordingly.

Page 43, insert after line 2 the following: SEC. 207. ENHANCED AUTHORITY OF MEMBERS OF THE ARMED FORCES IN DRUG INTERDICTION ACTIVITIES.

(a) IN GENERAL.—Section 374 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Subject to paragraph (2), the Secretary of Defense, upon request from the head of a Federal agency with jurisdiction to enforce the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), may assign members of the armed forces under the Secretary's jurisdiction to assist drug enforcement officials of that agency in searches, seizures, and arrests outside the land area of the United States (or of any territory or possession of the United States) in connection with the enforcement of such Acts.

"(2) Members may be assigned to provide assistance under paragraph (1) only if—

"(A) the Attorney General certifies that there are insufficient law enforcement resources available to ensure the success of the operation;

"(B) the assistance is approved by the Secretary of Defense with the concurrence of the Secretary of State; and

"(C) Federal drug enforcement officials maintain control over the activities and direction of any drug enforcement operation.

"(3) Nothing in this subsection shall be construed to transfer the responsibility for the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substance Import and Export Act (21 U.S.C. 951 et seq.) to the Department of Defense."

(b) CONFORMING AMENDMENT.—Section 375 of such title is amended by inserting "(other than under section 374(d))" after "under this chapter".

Mr. BENNETT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. BENNETT] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Does any Member seek recognition in opposition?

Mr. DICKINSON. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Alabama [Mr. DICKINSON] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. DANIEL].

Mr. DANIEL. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, we have examined the amendment. We know how much effort the gentleman has put into this drug problem, and we commend the gentleman for the work he has done. This side has no objection to the gentleman's amendment.

Mr. BENNETT. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, this amendment is an amendment which has already passed the House by a record vote of 364 to 51. By definition, all it does is enable the military to be used in very restricted circumstances to assist in the fight against drugs. It has solid bipartisan support.

The Conference of Mayors and Municipalities emergency narcotics discussion convened by the gentleman from New York [Mr. RANGEL] and Mayor Koch have approved. The President's Commission on Organized Crime has approved. It follows the tradition of our Nation.

There has been some talk about what the traditions of our Nation are in this matter. I point out that President Washington mobilized the mili-

tary to put down the Whisky Rebellion in 1794. President Eisenhower used the military in the Little Rock situation to enforce integration. Presidents Eisenhower, Kennedy, and Johnson in various civil rights matters did similarly. And in 1981, Congress passed the posse comitatus amendment to allow the military to provide limited assistance in the war against illegal drug traffic.

This is not a piece of legislation that is subject to the criticism that is going to create a "banana republic." Just exactly the opposite is true. The criticism would be well founded against a piece of legislation if it turned over to the military civilian functions, and that is what we think about when we think about a banana republic. This is just exactly the reverse. This is the civilian branch of the Government using the military to enforce laws that have been enacted by Congress to protect the country in various aspects, and it will in no way infringe upon the responsibilities or protections of the American people in any aspect of their lives.

□ 1145

So it is a good piece of legislation. It is a moderate piece of legislation. I offer this amendment not only on my own behalf but on behalf of particularly the gentleman from Florida [Mr. SHAW] and others who have expressed an interest in it. Mr. SHAW and I have really drafted this legislation, therefore, it really is the Bennett-Shaw amendment. I want to pay tribute to him for his great leadership in this field.

Another amendment will be offered shortly and I might as well talk a little bit about that. It will add to the amendment. It will not subtract from the amendment. It is a little confused in the RECORD as it stands. If you read the RECORD, you might think that it was going to substitute for the amendment that I am offering. I have been advised by the Parliamentarian that what actually happened is the amendment by Mr. HUNTER of California will be addition to and not otherwise involve this matter. Therefore, as I understand it, we can vote for or against Mr. HUNTER's proposal and then we can vote for or against the proposal that I have with that added or with it out.

I would like to say a little bit on how I feel about Mr. HUNTER's proposal. Mr. HUNTER's proposal is a more dramatic proposal. It has "hot pursuit" in it. I personally favor that, but I would be very distressed if I felt that in some way that carried down and destroyed the very temperate amendment which I have offered here. So I am expressing my personal feelings about it, but I want to put it in the proper context.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding.

Mr. Chairman, I would simply like to commend the gentleman from Florida. His leadership in this area and particularly the use of the military is well known and well founded. I remember back in 1981 with the change of posse comitatus it made a lot of this possible. He is the father, so to speak, of involvement of the military.

I certainly want to commend the gentleman and commend him for this amendment. It is excellent.

Mr. BENNETT. I thank the gentleman. God bless you.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman.

Mr. FASCELL. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague from Florida, Mr. BENNETT.

Despite the outstanding efforts of Federal, State, and local law enforcement agencies, south Florida continues to be a haven for drug traffickers. Since 1981, the military has been loaning equipment to Federal law enforcement agencies to fight drug smuggling. The amendment before us would enhance existing military cooperation and allow military personnel to assist in certain aspects of Federal antidrug efforts outside U.S. borders.

This House overwhelmingly approved the use of military personnel in the war against drugs last year when CHARLIE BENNETT offered this language to the fiscal year 1986 Department of Defense authorization bill. Let's escalate the war against drug trafficking and approve the Bennett amendment once again.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Chairman, I stand in support of the Bennett amendment that has been worked on by a member of the Select Narcotics Committee, Mr. SHAW. I think we all are concerned when it appears as though the military is usurping civilian authority. Clearly, you have more protection in this bill where the Attorney General and the Secretary of Defense are clearly giving assistance to the civilian authority which needs more help now than ever before.

It is a good amendment, and I am certain that we are going to pass it into law.

Mr. BENNETT. Mr. Chairman, I yield 2½ minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. I thank the gentleman for yielding me this time.

Mr. Chairman, I strongly support this amendment. Tightening up these borders with the assistance of the military may be our last, best hope. Eradication of crops abroad on the poppy fields of Laos, Burma, Thailand, Turkey, our Latin American neighbors, a whole horde of them, simply has not worked. The cash values of the crops are too high, the corruption and inefficiency in those governments is too great. We have spent hundreds of millions of dollars, and yet the drugs keep flowing over our borders and into the mouths or veins of our kids.

I myself sponsored an amendment with Senator Ed Muskie 15 years ago to start crop substitution efforts in Turkey. It has worked in Turkey, but in most of the rest of the developing world, it has not worked. We know from experience that once the drugs get off of those fields, are processed, and get into our country, our law enforcement process breaks down. It is corrupting. Our police are virtually overwhelmed with the burden of law enforcement. We cannot cope with the avalanche of drugs once it crosses our borders.

Stopping it at the border is our last, best chance, Mr. Chairman. The very sophisticated drug traffickers who are operating in this \$100 billion-plus industry have the most exquisite advances in high-technology communications, transportation, intelligence and the like. They use "mules" at the border as intelligence. They encourage large numbers of people to cross our border illegally not only carrying drugs across but to send back to them information as to when the borders are less manned and when they are more manned and what would be the best time for them to send their deadly poison across the border.

We urgently need the latest advances in communications, in transportation, in surveillance, in intelligence, and finally in sheer, brute firepower that only the armed services can provide.

Mr. BENNETT. Mr. Chairman, I reserve the balance of my time.

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding me this time.

Mr. Chairman, under the rule I know that in order to claim the time on our side on this particular amendment that you would have to rise in opposition, but I am sure that the gentleman from Alabama is going to listen very carefully to this debate and that in a few minutes he is not only going to favor it, but he may even stand up and speak in favor of it because of the wisdom of what we are saying here on the floor of the House.

We have traveled down this road many times. Unfortunately, here in the House, despite the fact that we have overwhelmingly passed on this issue time and time again, the wisdom of the House just does not seem to be heard down at the other end of the corridor and the other body has not embraced this concept.

What we have now I think is a new spirit in this country, and it is a spirit of the people that is rising up and saying, "Enough is enough; we have gotten ourselves into a situation where this drug problem is affecting and threatening our very future and our very presence in the workplace and in the schools."

All across this country drugs are the biggest, biggest threat that we have ever had to our national security. What country, what country would go after the greatest threat to its national security without in any way involving in a significant manner the Armed Forces of the United States?

The budget of this country has overwhelmingly been weighted in favor of the military over the last several years. I have favored such buildup because it has been absolutely necessary. But why have all of those men and women and machinery and equipment, airplanes, ships, all of that talent, all of that manpower, why keep it bottled up and suppressed and not use it against the greatest threat to this country that we have? Why not put it out there and use it to its fullest extent against the drug dealers and those who would smuggle drugs into this country?

The Bennett-Shaw amendment merely says that we are going to be giving the Armed Forces the right to make searches and seizures and arrests. This means that they will have their trained personnel, and they will be trained, in order to accomplish this mission. They will not fail us. We are going to put the first line into the battle.

We do not have sufficient funds nor sufficient capacity in order to put the necessary funds into the DEA, the Coast Guard, the Customs and the other agencies that we have depended upon exclusively as the first line of defense against drugs.

□ 1155

It is now time to bring the military to the front. I compliment my friend, the gentleman from Florida [Mr. BENNETT], who has steadfastly stood firm in this particular matter as it has come before the House time and time again.

Mr. Chairman, I would say to the conferees and to my colleagues here today that this, if it survives the conference process, is the most important and most vital thing in this bill, and it is the one thing that is going to make

the difference if we are to win our war against drugs.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from South Carolina [Mr. HARTNETT].

Mr. HARTNETT. Mr. Chairman, I want to commend my colleague, the gentleman from Florida [Mr. BENNETT], for doing something about the one major threat we really face, as was pointed out by my immediate predecessor at this podium. This is bigger than our imbalanced budget, and it is bigger than the tax bill. It is the most important thing facing us. It is chemical warfare of the most hideous and horrible kind.

This chemical warfare is being waged against our people, not against armies in the field that are prepared to combat this threat but against the innocent minds and bodies of our young people, our older people, our innocent people.

It is time that the Congress of the United States put its money where its mouth is. We spend almost \$300 billion every year to preserve our national security against a potential threat when year after year after year larger numbers of our citizens are suffering and dying from this threat to our national security, a threat worse than any nuclear warfare or any chemical warfare waged on any battlefield. It is time that we commit the resources of this country against the greatest threat to our national security, this chemical warfare of the worst and most horrible kind.

Mr. Chairman, I say to the gentleman from Florida [Mr. BENNETT] that I commend him for his tenacity, for his stick-to-it-iveness and for coming back year after year. It is time that we agreed to commit all the resources of this country, including our Armed Forces, to combat this horrible threat to our national security.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Connecticut [Mr. McKINNEY], who offered this amendment to the armed services defense authorization bill initially.

Mr. McKINNEY. Mr. Chairman, let me say to the Members of the House that, as they probably recall, I spoke in a somewhat impassioned manner on this amendment when the gentleman from Florida [Mr. BENNETT] first offered it last year. We both had had very, very personal experiences with the drug, cocaine. Therefore, I rise in strong support of this amendment which would allow the use of Defense Department personnel to assist drug enforcement officials in drug interdiction functions.

There are some amazing figures here, and let us get some of these figures down before we start discussing this. There are 25 million people in the United States who have tried co-

caine. There are 5 million current users of the drug. There are approximately 1.2 million American citizens who are addicted to the drug.

There are 25 million American citizens who use marijuana regularly, and there are 550,000 or about half a million active heroin addicts. I would point out that it is estimated that 150 million tons of cocaine, 12 tons of heroin, and 30,000 to 60,000 tons of marijuana will enter the United States during 1986.

Mr. Chairman, we are willing to tax the American people to pay \$292 billion in order to be prepared to defend ourselves against an evil power known as the Soviet Union, a country that would have to destroy itself to attack us. It is time we are willing to put similar might against a danger that is destroying our families every day and every night.

These animals who sell drugs to our kids are not taking any risk except that of getting rich. The State of Virginia just sold a drug kingpin's house for \$4.1 million. The only thing that can happen to drug pushers is that they will probably get arrested, and then I am sure they will get a light sentence, instead of getting burned as many of them ought to be.

AMENDMENT OFFERED BY MR. HUNTER TO THE
AMENDMENT OFFERED BY MR. BENNETT

Mr. HUNTER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. HUNTER to the amendment offered by Mr. BENNETT:

After the section inserted by the Bennett amendment, insert the following:

SEC. 208. USE OF ARMED FORCES FOR INTERDICTION OF NARCOTICS AT UNITED STATES BORDERS.

(a) GENERAL REQUIREMENT.—

(1) AUTHORITY TO LOCATE, PURSUE, AND SEIZE AIRCRAFT AND VESSELS.—Within 30 days after the date of the enactment of this Act, the President shall deploy equipment and personnel of the Armed Forces sufficient to halt the unlawful penetration of United States borders by aircraft and vessels carrying narcotics. Such equipment and personnel shall be used to locate, pursue, and seize such vessels and aircraft and to arrest their crews. Military personnel may not make arrests of crew members of any such aircraft or vessels after crew members have departed the aircraft or vessels, unless the military personnel are in hot pursuit.

(2) RADAR COVERAGE.—Within 30 days after the date of the enactment of this Act, the President shall deploy radar aircraft in sufficient numbers so that during the hours of darkness there is continuous aerial radar coverage of the southern border of the United States.

(3) PURSUIT AIRCRAFT.—The President also shall deploy sufficient numbers of rotor wing and fixed wing aircraft to pursue and seize intruding aircraft detected by the radar aircraft referred to in paragraph (2). The President shall use personnel and equipment of the United States Customs Service and the Coast Guard to assist in carrying out this paragraph.

(4) **USE OF NATIONAL GUARD AND RESERVES.**—In carrying out this section, the President shall use members of the National Guard and the Reserves. The tours of such members shall correspond to their training commitments and shall be considered to be within their mission. The President shall withhold Federal funding from any National Guard unit whose State commander does not cooperate with the drug interdiction program required by this Act.

(5) **EXPENSES.**—The expenses of carrying out this section shall be borne by the Department of Defense.

(b) **45-DAY DEADLINE.**—The President shall substantially halt the unlawful penetration of United States borders by aircraft and vessels carrying narcotics within 45 days after the date of the enactment of this Act.

(c) **REPORT.**—Within 60 days after the date of the enactment of this Act, the President shall report to Congress the following:

(1) The effect on military readiness of the drug interdiction program required by this section and the costs in the areas of procurement, operation and maintenance, and personnel which are necessary to restore readiness to the level existing before commencement of such program.

(2) The number of aircraft, vessels, and persons interdicted during the operation of the drug interdiction program and the number of arrests and convictions resulting from such program.

(3) Recommendations for any changes in existing law that may be necessary to more efficiently carry out this program.

(d) **REQUEST FOR FUNDING.**—Within 90 days after the date of the enactment of this Act, the President shall submit to Congress a request for—

(1) the amount of funds spent as a result of the drug interdiction program required by this section; and

(2) the amount of funds needed to continue operation of the program through fiscal year 1987.

Such request shall include amounts necessary to restore the readiness of the Armed Forces to the level existing before commencement of the program.

(e) **BUDGET REQUESTS.**—Beginning with the budget request for fiscal year 1988 and for each fiscal year thereafter, the President shall submit in his budget for the Department of Defense a request for funds for the drug interdiction program required by this section in the form of a separate budget function.

Mr. HUNTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. DICKINSON. Mr. Chairman, reserving the right to object, under my reservation I would like to propound a parliamentary inquiry, if I may.

PARLIAMENTARY INQUIRY

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DICKINSON. Mr. Chairman, it was my understanding that there would be 10 minutes allocated to each side on the pending amendment, after which it would be in order for the gentleman from California [Mr. HUNTER] to offer his amendment. If that were

true, I had assumed that the gentleman from Florida [Mr. BENNETT] would make the closing argument on his amendment, and that I still had 3 unallocated minutes.

I was wondering if the procedure has been changed or whether I am correct in my assessment that we still have some time left, 3 minutes on my side on the Bennett amendment before we get to the Hunter amendment, or would that follow the Hunter amendment?

The CHAIRMAN (Mr. CARR). The Chair will state that the gentleman from Alabama [Mr. DICKINSON] and the gentleman from Florida [Mr. BENNETT] have reserved their time on the Bennett amendment, and that reservation stays in effect.

The gentleman from California [Mr. HUNTER] is entitled to offer his amendment at any time during the consideration of the current pending amendment, and the gentleman has sought to do so. The gentleman's time will be protected.

Mr. DICKINSON. Mr. Chairman, I had not sought to reserve my time, but I shall do so.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANIEL. Mr. Chairman, I rise in opposition to the Hunter amendment.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. HUNTER] will be recognized for 10 minutes and the gentleman from Virginia [Mr. DANIEL] will be recognized for 10 minutes in opposition.

The Chair now recognizes the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, let me say to my colleagues that this is an amendment that is offered by himself and the gentleman from Arkansas [Mr. ROBINSON]. It is an amendment that complements very closely the amendment that is offered by the gentleman from Florida [Mr. BENNETT], an amendment that calls for use of the Armed Forces outside the United States in interdicting this terrible drug traffic.

The problem is that we have literally hundreds of aircraft and ships penetrating our borders on an annual basis and bringing in 150 tons—that is 300,000 pounds—of cocaine to our children annually.

I can give the Members my own experience from my own area of the border, which is the California-Mexican border. In the last 8 years Customs has interdicted by aerial pursuit this many aircraft bearing narcotics: Zero, not a single one.

The amendment that the gentleman from Arkansas [Mr. ROBINSON] and I are offering very simply says that the

President, within 30 days after the enactment of the act, shall deploy sufficient resources, radars, aircraft, et cetera, to interdict aircraft that are penetrating American borders and that the American military shall have only the right to arrest where there is hot pursuit. They cannot kick in doors in Sacramento or Alabama or anywhere else. And right now they have the right to arrest anyway if a plane comes in over 10,000 feet. Right now we have jurisdiction by altitude. North American Air Defense will interdict fast-moving aircraft that moves in at 10,000 feet, and they will arrest people, whether they are civilian, military, or whatever. They will bring those planes down. Under 10,000 feet, they say, "Well, we are going to give that jurisdiction to Customs." Customs is not up to the job.

Let me just tell the Members that this is a good package that we put together in the Committee on Armed Services calling for aerostat balloons that will cover the southern borders of the United States. The problem is that it will take at least a year to construct those balloons. I think it will take about 1½ to 2 years, so it is going to be close to 1988 or thereafter when we have them.

Mr. Chairman, this is an important amendment. If Members are interested in closing the door now on narcotics in a very reasonable way, this complements the Bennett amendment, and I will ask the Members for their support.

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Mr. DICKINSON. Mr. Chairman, will the gentleman yield for a question?

Mr. HUNTER. I cannot yield, unless I have some time at the end, and then I will be happy to yield.

Mr. Chairman, first I yield 2 minutes to the Republican whip, the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to congratulate the gentleman from Florida [Mr. BENNETT] for his amendment and also urge the adoption of the amendment by the gentleman from California [Mr. HUNTER] to the Bennett amendment which will be supported also by the gentleman from Arkansas [Mr. ROBINSON].

It is a very narrowly drawn amendment. It is one I think we should support. It allows the use of military equipment and personnel in sufficient numbers to halt the unlawful penetration of drug traffickers across our borders. The military could locate, pursue, seize, and arrest crews of aircraft and vessels that are trafficking in drugs. The military could make arrests only along the U.S. borders.

Now, lawyers will argue that there are some constitutional problems here. Well, I am a law graduate. I served on the Judiciary Committee. I am a lawyer, but I think there have been exceptions to the posse comitatus rule. I know the history of why it was put into place.

I think there is no question that this is not an unconstitutional amendment. It is one that we should adopt, even though we will hear these legalistic arguments.

Also, there will be those who will say, well, this is not a military role that our Armed Forces should be involved in. Well, then what should they be involved in?

There was a Governor of Wisconsin a few years ago who got elected Governor by saying that the Government at the Federal level should defend the shores, deliver the mail, and stay the hell out of our lives.

Now, if this is not defending the shores, I do not know what is, with the illegal and illicit drugs that are invading our country, polluting our children, harming the economy, and undermining the social fiber of our country.

Also, I had a constituent tell me, "You guys quit talking about the war on drugs if you are not going to wage war." This is war.

Are we serious about stopping the drug traffic coming into this country? If we are, should we not make full use of our military in using their radar to locate these people, seizing and arresting these people when you catch them in the act on a vessel or an aircraft?

Mr. Chairman, we should support the amendment of the gentleman from California [Mr. HUNTER] to the amendment of the gentleman from Florida [Mr. BENNETT]. Vote "yes" on the war on drugs.

Mr. HUNTER. Mr. Chairman, may I inquire as to how much time we have left?

The CHAIRMAN. The gentleman from California [Mr. HUNTER] has 5½ minutes remaining.

Mr. HUNTER. Mr. Chairman, we reserve the balance of our time.

Mr. DANIEL. Mr. Chairman, I rise in opposition to this amendment, and I yield myself such time as I may consume.

Mr. Chairman, the amendment introduced by the gentleman from California is neither frivolous nor careless. It stems from the same frustration that affects every Member in this Chamber, and indeed, the same frustration which has led the bipartisan leadership of this House to create the omnibus drug bill in the first place. But that very frustration inherent in this amendment has caused the author to look for an instant solution.

What this amendment proposes is to use the full military resources of the United States to seal our borders in

one rapid operation. What the amendment seeks is to stop the flood of illicit narcotics across our borders. There is no question that such a mobilization can result in a substantially closed border for a short period of time. That is not an issue here. The issue is, that once we have used massive resources to close our borders, what relevance does that have to our overall national war on drugs, and what long-term effect will this step have in stopping the drugs?

The answer is, that in the short term, this would be a very satisfying maneuver. It would very much relieve all of our frustration to throw massive resources at one aspect of this problem, the physical aspect of interdiction, for so long as the level of effort could be sustained.

But once we had done so, what would we really have accomplished in combating illegal drugs?

Mr. Chairman, in cooperation with our distinguished colleague from Oklahoma, his Government Operations Subcommittee, and both the House and Senate Appropriations Committees, we have been working for almost 4 years to build a permanent, effective, and successful drug interdiction system for this country, one that took advantage of our military capability and linked it to our law enforcement agencies in all the jurisdictions. We know where the drugs come from, how they get in, and what it will take, day in and day out, year in and year out, to fashion an effective interdiction system, and we have been building that system. This omnibus bill could not have come at a better time to coordinate all of the actions necessary to include such an interdiction system, and to effectively link it with means to disrupt, apprehend, and prosecute the smugglers.

But the key to years of effort is that to be ultimately successful, and halt, rather than just harass, the flow of illegal drugs. We have had to create a system. At any point over the last 4 years, the President could have ordered 95 percent of what this amendment seeks to accomplish. And why hasn't he? No one in this Chamber can question his concern at stemming the flow of these drugs.

And the reason that he has not created a domestic Iron Curtain, using our military, is that it alone cannot work. And that it, in conjunction with coordinated and effective law enforcement, is not necessary.

Title II of this bill, before you today, is a logical, orderly, and balanced culmination of 4 years effort. It represents how we can build in the remaining assets needed for the military contribution to a border interdiction system which will work. It is not dramatic, and it doesn't provide short-term, instant gratification. The gentleman from California's amendment is

sincere, and it comes from the heart, and it captures all of our frustration.

But it will not work. It encapsulates all of the mistakes we have tried and discarded in building a permanent interdiction system. We have found that throwing military resources at the problem by themselves results in no long-term benefit, and eventually does nothing but destroying the military readiness of the units without halting the drug flow. We have tried using dedicated E-2C's from the Atlantic and Pacific Fleets. We have tried using dedicated AWACS missions. We have tried massive coastal blockages near the exporting countries. The smugglers know that these incredibly expensive and wasteful tactics can't be sustained. So for a month or 6 weeks, they lay back or resort to smaller and more secret shipments.

In essence, we have learned that we can use some of the capabilities of some military systems and units some of the time, to profitably support law enforcement operations. But if we try to substitute the military for adequate law enforcement, then it results in two negative effects. Military readiness to perform its wartime missions immediately suffers, and what we get is very expensive and not-very-successful interdiction for a short period of time.

I share the gentleman from California's frustration, and his concern. There is no more serious problem facing our country than these illicit drugs. But I say to him that past a short time period, 1 or 2 months only, his amendment will not have an appreciable effect on the problem. And in the longer term will actually siphon off precious resources which should be applied to a balanced law enforcement effort. I urge the defeat of the amendment and the passage of title II as found in the leadership's bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr. Chairman, I yield to the gentleman from Virginia [Mr. WHITEHURST].

Mr. WHITEHURST. Mr. Chairman, I rise in opposition to the Hunter amendment. Although I support and applaud the motives of my friend from California, I believe his amendment is both unnecessary in light of improvements in drug interdiction capabilities provided in this bill and unwise from a military readiness point of view.

Briefly, Mr. Chairman, the gentleman from California argues that his amendment is necessary because the civilian law enforcement agencies do not have the resources or the know-how to get the job done—namely, stop—or greatly diminish—the flow of illegal drugs into this country. Moreover, the gentleman asserts that putting military personnel in a direct interdiction, search, seizure, and arrest

role would be excellent military training. Unfortunately, none of these premises is correct.

With regard to underfunding of civilian law enforcement agencies, I couldn't agree more. That's why this and other titles of the omnibus drug bill provide significant plus-ups for the Customs Service, the Coast Guard, the Drug Enforcement Agency and so on. I would submit that the gentleman's amendment is unnecessary and could be somewhat redundant given all that we propose to give the civilian drug enforcement organizations.

With regard to the know-how to get the job done, my friend from California would have you believe that civilian drug enforcement officials are bumbler—Keystone cops—in comparison to military personnel and that military personnel are in an excellent position to immediately step in and halt the drug problem. This perception couldn't be farther from reality, Mr. Chairman. First, far from being bumbler, our civilian drug agents are highly trained and capable individuals. Their perennial problem has not been incompetence, but a lack of resources—and we propose to fix that today in this bill. Second, military personnel are not trained in law enforcement procedures and are, therefore, not in a position to step into this fray immediately. Sure, an Army soldier is trained to handle a weapon and could forcibly detain and arrest a drug smuggler at gunpoint. But if he doesn't follow proper arrest procedures—procedures our military personnel currently do not know or practice—a smart drug lawyer could easily have the case thrown out of court after wasting months of the soldier's valuable time in litigation. So the bottom line is: If you want to get the military more involved, you have to give them the proper training—something the 30-day limit of this amendment would not permit.

Finally, with regard to the claim that a direct interdiction, search, seizure, and arrest role for the military would be excellent military training, I believe that the gentleman is misguided. True, pursuing a drug aircraft gets a military pilot in the cockpit and permits very limited flight training, but in no way does it provide the kind of training in maneuverability, attack, and defense techniques that our pilots need to counter the Soviet threat. You might think of it this way: Sending Mario Andretti out on a driving errand may get the job done and may give Mario some experience behind the wheel, but it certainly doesn't help him prepare for the Indy 500. And why pay for an expensive Mario Andretti when others can perform the job just as capably at a much lower cost?

In sum, Mr. Chairman, this amendment is well intentioned but bad

policy. I urge my colleagues to keep the primary responsibility for drug law enforcement where it belongs—in the hands of capable, well-resourced, and experienced civilian law enforcement agencies. I ask for a no vote on this measure.

Mr. DICKINSON. Mr. Chairman, let me join with my colleagues. The three of us, the gentleman from California [Mr. HUNTER], the gentleman from Virginia [Mr. DANIEL], and I all serve together on the Armed Services Committee.

Mr. Chairman, I rise in opposition to the Hunter amendment because it is not practical. It is not doable. We all are attempting to do the same thing, that is to halt the influx of drugs into this country.

I originally had told the gentleman from California [Mr. HUNTER] that I would support this because I favor the concept of trying to do everything within our power to keep this from happening, but the way this amendment is drafted, Mr. Chairman, you cannot do it.

This mandates, this is not discretionary, this mandates that the Secretary of Defense will do these things within 30 days, and then another section says 45 days. You cannot physically do it.

What the gentleman from Florida [Mr. BENNETT] says, and I support it now that I understand it, he says that the Attorney General may call the Secretary of Defense for whatever assistance he needs.

It also says there will be a study made by spring of next year by the administration saying what they need.

Now, this is discretionary. Everybody wants to do it. It is a good thing.

This says, and I do not know if the American people are aware of this, but there are 290,000 registered and 4,000 unregistered general aviation aircraft. This thing mandates that we have got to interdict the influx of drugs by aircraft. How do you know which ones are carrying it? You cannot do this. This is a well-intentioned, but a badly thought-through amendment. It is not discretionary. It makes no difference whether the military is in a position to do it.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. DANIEL. Mr. Chairman, I yield 1 additional minute to the gentleman.

The CHAIRMAN. The gentleman from Alabama [Mr. DICKINSON] is recognized for 1 additional minute.

There was no objection.

Mr. DICKINSON. Mr. Chairman, I thank the gentleman.

As I said in my remarks on general debate yesterday, we are all working to achieve the same end. We would like to prohibit all influx of drugs into this country, but this amendment the Department of Defense says they cannot do it. It does not make it discretionary. There are not funds in here with

which to pay for what is being ordered done.

Under this a sheriff in a local community could just call on the National Guard and say, "Hey, send me a helicopter. I need it pretty soon."

The Department of Defense is not in charge of anything. Our civilian agencies have a mandate, they can mandate the Department of Defense to furnish them anything they want. There is no way to pay for it. There is no control. It is a bad amendment, well-intentioned, but a bad amendment.

I would hope that Members would support the Bennett amendment, but vote against the Hunter amendment.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. DANIEL. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in strong support of the amendment to the omnibus drug bill offered by the distinguished gentleman from Florida [Mr. BENNETT]. As my colleagues are fully aware, Representative BENNETT has been a strong and effective leader in the fight against narcotics trafficking and drug abuse.

The Bennett amendment would allow members of the armed services to assist civilian drug law enforcement officials in drug searches, seizures, and arrests outside the land area of the United States. Strong safeguards are provided under conditions of their use. First, in order for such assistance to take place, the action would have to be certified by the Attorney General as being necessary because the law enforcement resources are insufficient to ensure success of the operation without the armed service's participation; second, military assistance must be approved by the Secretary of Defense with the concurrence of the Secretary of State, and third, Federal drug enforcement officials must maintain control over the activities and direction of any drug enforcement operation. Under the Bennett amendment, the military is specifically restricted in enforcing certain Federal civilian law enforcement statutes. Civilian control over military assistance for civilian drug enforcement operations is clearly stipulated in this amendment.

Mr. Chairman, we are all too aware of the fact that drug trafficking and drug abuse have reached epidemic proportions in this Nation and our law enforcement officials are hard pressed to deal with the situation. In April, President Reagan signed a national security decision directive stating that drug trafficking is a threat to our national security. While we have increased some forms of military assistance to civilian drug law enforcement agencies under provisions of the posse comitatus statute amendments of 1981, this assistance does not fully address the

true national security threat that we face. If we are to truly wage a war against drugs, we must use all the resources that are available to our Nation to fight that war.

Military assistance to our civilian drug law enforcement agencies would be a clear sign to the traffickers that we mean business, and that we do not intend to fight a war with one hand tied behind our backs. There must be no mistaken impression about the power and resources of the enemy we face. The military assistance proposed in this amendment is a small but vital step in our Nation's efforts. Accordingly, I urge my colleagues to support the Bennett amendment.

Mr. DANIEL. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to both amendments.

Mr. Chairman, this important piece of legislation has in it many provisions that will improve our efforts to halt the flow of illegal drugs into this country. Moreover, it has substantial components on education and rehabilitation, which law enforcement professionals believe are the only really effective solutions to the drug problem.

As introduced, the bill does not infringe the civil or constitutional rights of our citizens. However, several Members, seeking an opportunity to exploit the drug issue, have rushed forward with time-worn amendments that are unwarranted and constitutionally suspect. Among the most dangerous of these amendments are those that would authorize the expanded use of the military to enforce the drug laws.

Mr. Chairman, we can all understand the frustration that has led to these proposals. After 6 years of this administration's budget priorities, the military sometimes seems like the only place to look for help. Certainly, the administration hasn't put adequate resources into the law enforcement agencies responsible for drug interdiction. In fact, the combined staffing of the two agencies with primary responsibility for drug interdiction—the Customs Service and the Coast Guard—is less today than 6 years ago, and these agencies would have suffered even deeper cuts if the administration had gotten its way.

Law enforcement officials admit they are intercepting at most 5 to 15 percent of the drugs coming into this country. So it is easy to understand how some would want to place greater reliance on the military. However, is a job for which the military is neither trained nor equipped. Military personnel simply do not have the knowledge of criminal procedure. Their arrests will almost certainly be challenged in court, and prosecutions will be jeopardized.

Moreover, these proposals strike at something fundamental: the strict separation we have maintained between civilian and military authorities. These amendments would break down that separation. They would bring the military, with its awesome power and its unique mission, into the civilian law enforcement business.

Mr. Chairman, the strongest argument against the use of the military is found in the very bill before the House today. Provisions already in the bill make changes in the role of the military unnecessary. First, the bill significantly increases funding for the Coast Guard for personnel and equipment. We are finally giving the Coast Guard the resources it needs to do its job. Second, the legislation expands the Taclets program which places Tactical Law Enforcement Teams consisting of Coast Guard personnel trained in law enforcement on board Navy ships to carry out searches, seizures, and arrests. This means that the military won't need the power to arrest. Third, the bill increased the commitment of military resources to the gathering of drug-related intelligence outside the United States and providing that information to the civilian agencies so they can act upon it.

This keeps the military out of the search and seizure and arrest area and limits the military to a support role, which is the most it should play.

The amendment offered by Mr. HUNTER is absolutely unprecedented. It would authorize, apparently, use of the military in making searches, seizures and arrests within the United States. For the first time ever, the military would have a permanent, daily role in law enforcement. The amendment orders the President to deploy military equipment and personnel sufficient to halt the flow of illegal drugs. Nobody in their wildest dreams has ever expected that we could halt the flow of illegal drugs. Yet this amendment requires substantial compliance within 45 days. The cost of such a provision can only be described as astronomical. The impact on military preparedness has to be catastrophic.

The Hunter amendment is sometimes described as a "hot pursuit" amendment. But it states that the military shall "locate" vessels and aircraft bringing illegal drugs into the country, regardless of where those vessels and aircraft are at the time. It says the military may seize such vessels and aircraft and arrest their crews, regardless of where those vessels and aircraft are found. This amendment puts the military at the front lines of law enforcement in all 50 States. It fundamentally contradicts the intention of the Framers, who didn't even contemplate a need for a standing army and believed that law enforcement should be mainly a

matter of State and local responsibility.

Mr. BENNETT's amendment differs only in that it limits the military to searches, seizures and arrests outside the land area of the United States. Yet it would still allow military arrests in our harbors and on our navigable waterways.

Mr. BRYANT's amendment, to be considered next, appears to avoid the arrest problem by authorizing the military only to participate in interdiction. This limitation gives no comfort. Webster's dictionary defines the verb "interdict" as "to impede or hinder or isolate by firepower and bombing." Keep in mind this amendment applies in the United States as well as overseas. Is this what we want our Armed Forces doing in this country?

Mr. Chairman, drugs are a law enforcement problem, not a national security problem. The gentleman from Oklahoma [Mr. ENGLISH] has documented extensively how we have failed to give our civilian agencies the resources they need to interdict illegal drugs. The military has been turned to only in desperation because the military seems to have so many resources. This bill for the first time provides those resources to the civilian agencies. It makes the involvement of the military unnecessary. This country has gotten into serious problems in the past when it has too broadly defined the concept of national security. I believe we should place our trust, and our resources, in our civilian law enforcement agencies. I urge the members to reject all of these amendments.

Mr. DANIEL. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Chairman, I favor a strong but reasonable and common sense drug enforcement program by our local, State, and Federal officials. But I rise in opposition to the Hunter amendment.

My opposition to this amendment is not against the good intentions of my colleague, but it stems from a statute that is over 100 years old and has its roots in our U.S. Constitution. That doctrine is posse comitatus, which Mr. Edwards referred to. It is a rule which prohibits the military from taking away the powers of our States and acting as a police force in domestic matters. We only have to look into Central and Latin America governments and others around the world to see military units which are heavily involved in enforcement of citizen activities.

This is a doctrine which provides a distinct separation between the policing functions of our society and our military. Now, we might think that the idea of a military police force enforcing civic law is far-fetched. And our military is run by a civilian.

I believe that with its new beefed-up budget, the Drug Enforcement Administration will be better able to do a better job. This tight enforcement agency will make strong inroads into the serious drug problems. I also believe that with the new awareness of this problem by the American people and with the strength of this bill, we will have a potent and effective weapon against all who seek to contaminate our society and our children with drugs.

This amendment, as I see it and as the Department of Defense sees it, would damage the posse comitatus safeguard. I quote from a letter written by Under Secretary William Taft to Chairman LES ASPIN:

This amendment would encourage reliance on military forces rather than civilian law enforcement officials in the drug interdiction effort. This would have the effect of using the defense budget to fund this activity which would act as a disincentive to proper budgeting for civilian agencies, with a parallel negative impact on the accounts that fund military readiness. Such backdoor budgeting is contrary to the best interests of drug interdiction and national defense.

For almost 10 years I was senior staff person to Senator SAM NUNN, a recognized expert on defense, when the first series of exception amendments were passed to the posse comitatus statutes. I witnessed the intense deliberations which were undertaken before the strictly defined exceptions were written into law. These exceptions already allow DOD to aid in drug enforcement efforts in many ways. For example, in the last year alone, the Defense Department provided over 10,000 hours of aerial surveillance for civilian agencies and loaned over \$88 million in equipment.

The proper role for Defense is to provide aid and not to become enforcers. The Hunter amendment goes too far in this respect. The Supreme Court agrees with this position, also. In 1972, Chief Justice Burger, in writing for the Court, addressed the subject of the separation of military and civilian affairs:

The traditional and strong resistance of Americans to any military intrusion into civilian affairs . . . has deep roots in our history and found an early expression, for example, in the third amendment's explicit prohibition against quartering soldiers in private homes without consent and in the constitutional provisions for civilian control of the military. These prohibitions . . . explain our traditional insistence on limitations on military operations in peacetime.

The overall bill in general is a good one and deserves positive attention. But this is our battle as civilians and law enforcement officials. I am going to be doing my part to get tough against drugs. I will start today with my votes to assure that D.E.A. has the funds it needs to stop drugs at the source.

Mr. HUNTER. Mr. Chairman, I yield 30 seconds to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, I rise in support of the Hunter-Robinson amendment.

The only way we are going to be able to get at this massive flow of drugs across the border is to have a massive amount of manpower down there. As has been said already on the floor, the Customs Service does not have the reservoir of people needed to do that, but the Defense Department does.

Earlier this summer I suggested to the President that he assign the reservists and the National Guard to do their training maneuvers down on the border for the very reason that has been outlined here today so that we will have the manpower necessary in order to hold down drug smuggling.

As radical as this proposal may sound, the border patrol has said an army is necessary to stop the staggering flow of illegal drugs. Why not our soldiers—already scheduled to be in the field—to defend us against a toxic invasion as deadly as any military invasion.

Mr. HUNTER. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, I rise in well-considered support of the Hunter-Robinson amendment today.

To those who are concerned about the implications of this amendment for civil liberties, I would make the following observation: The greatest threat to civil liberties in the United States is an exasperated public that is losing faith rapidly in our current system of civil liberties and is impatient with the insistence that many of us have for protecting that system when they experience every day in their homes the unlimited rash of crime that breaks out all across this Nation as a direct result of drugs.

Drugs are not simply a problem of usage. Drugs are a problem that translates directly into garden variety crimes in the neighborhood. In my own community, an increase of 18 percent in crime in my city last year was accompanied by a doubling in the number of drug related deaths, a doubling in the amount of drugs confiscated in our region. There is a clear statistical connection.

Mr. Chairman, I strongly urge a vote for the Hunter-Robinson amendment. Contrary to some of the things that have been said, it relates only to interdiction and law enforcement at the borders of the United States.

Ask your citizens, they will tell you, they believe already that we are using the Armed Forces for protecting our borders, because it is a simple commonsense assumption. It is a commonsense proposal that is made today by the gentleman from Arkansas [Mr.

ROBINSON] and the gentleman from California [Mr. HUNTER].

I urge you to support it. I think nothing less than this is going to make a dramatic impact on the smuggling of drugs into the United States.

□ 1220

Mr. HUNTER. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, in part as a response to the comments and concern about posse comitatus of the gentleman from Florida, Mr. DANTE FASCELL, I would suggest that the reason that both of these amendments are effectively before us is because the Department of Defense has used that historical issue as an excuse, often, for not cooperating with private and civilian agencies. As a matter of fact, we need to use our resources to carry out this war against drugs. We ought to send a message to DOD here and now regarding our intent in that regard.

Mr. DANIEL. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, listening to this debate one would think that the Defense Department has not been active in support of civilian law enforcement agencies. The fact is that over the past 4 years they have spent \$300 million; last year alone it was \$80 million. The Defense Department is contributing its share in support of civilian law enforcement within constitutional restraints.

Mr. Chairman, I yield the balance of my time to the able gentleman from New York [Mr. RANGEL] to conclude the debate for the opposition.

Mr. RANGEL. Mr. Chairman I rise in opposition to the Hunter amendment. Nobody can claim more credit in fighting against this surge of drugs than the gentleman from California [Mr. HUNTER] and the gentleman from Arkansas [Mr. ROBINSON]. There is no question in my mind that the overwhelming number of citizens believe that the military can and should be doing more. It is the popular thing to do, just to tell the President in 30 days put them out there and stop these drugs from coming into the United States.

But what we are doing today if we allow the Hunter-Robinson amendment to pass is to hold hostage the work that has been done by this committee and by the gentleman from Florida [Mr. BENNETT]. We have already broken new ground today in allowing the military to be doing more of what they should be doing, without putting the restrictions on that are in the Duncan-Robinson amendment, which we have not had hearings on, and we really do not know whether they violate the civil liberties of individuals that are entitled to have civil-

ians control, and not the military control.

I am just hoping that we can take a look at what Mr. BENNETT is trying to do, and to realize what the parliamentary situation that we face today is that Mr. HUNTER is attempting to perfect. If it turns out that there is something that he has overlooked, that the President cannot respond in 30 days, that we cannot get this thing moving in 45 days, then all of the good work that we have done in 1981, the passage of the Bennett amendment, all of that is wasted.

It would seem to me that we should stick with Bennett and that we should ask the gentleman to reconsider, because we have Governors from all over the country asking for the Bennett amendment. They have testified on behalf of it. I would just hate for us to move in what appears to be popular, to move in what I believe is the right direction, without having the constitutional safeguards and without having to jeopardize the work that we have done on Mr. BENNETT's amendment.

Mr. HUNTER. Mr. Chairman, I yield 30 seconds to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Chairman, I think that maybe we ought to take a little different slant on this thing, and I understand all the provisions and the exceptions and have great respect for all those, but what segment of our society today is most under attack from the use of drugs? The military. If you are going to have a war, let us have a war and use the resource that you have at your command, because if you do not do something about drugs today, you will not have the kind of people that you need to handle the assignments in the military coming up. Why not use the military to do exactly that?

Mr. Chairman, I rise in support of the amendment offered by the gentleman from California [Mr. HUNTER]. I believe the amendment is an appropriate response to the invasion of drugs that threatens our Nation's future. The Hunter amendment would truly add meaning to the rhetorical phrase we all use in this Chamber alluding to America's "war on drugs."

The Hunter amendment directs the President to use military equipment and personnel to interdict aircraft and ships which are coming into our country. As a representative of a border district, I can say firsthand that our southern frontier is open to anyone who wants to profit from the lucrative drug smuggling trade. The U.S. Customs Service does a great job for the resources they have and as ranking member of the Appropriations Subcommittee that has jurisdiction over Customs, I am happy to say that we included \$68 million over the fiscal year 1986 Customs funding level. However, we need to support the Hunter amendment to supplement our border defenses.

DRUG PARAPHERNALIA

Speaking of the Customs Service, I would also like to take the opportunity to thank my

good friend from Nebraska, Mr. DAUB, for introducing two of my amendments relating to the Ways and Means Committee markup of this bill.

I introduced H.R. 5282, the Antidrug Paraphernalia Act of 1986 which would amend the Tariff Act of 1930 to provide U.S. Customs officials with the authority to confiscate drug paraphernalia imported into this country. I am pleased that the Ways and Means Committee adopted my bill as an amendment to H.R. 5484. My amendment would not be difficult to implement because it would merely provide Customs agents with the legal authority to seize any paraphernalia they find during the course of their routine inspections or enforcement operations.

Included in the drug paraphernalia import ban are cocaine free base kits, any product or material that is specifically designed for planting, growing, harvesting or processing marijuana, hashish, or cocaine, and any array of other drug utensils.

TOTO

The Ways and Means Committee also adopted an amendment which would authorize \$350,000 for a feasibility and application study for a low-level radar detection system for Los Alamos National Laboratory in New Mexico. There exists a huge radar gap along the 2,000-mile southern border and the Los Alamos technology looks very promising based on recent test results.

CONCLUSION

Again, let me commend my good friend, Mr. HUNTER, for introducing his timely amendment. I believe it's a good idea and if we are serious about the war on drugs, let's fight the battles with adequate resources and manpower.

Mr. HUNTER. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from California [Mr. HUNTER] has 2½ minutes remaining.

Mr. HUNTER. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I just want to say that this bill is going to cost about \$4 billion, and that is peanuts. Most of that money is going to education programs and other things that we have been doing for years that are having a slight effect. But the key to the war on drugs is to get it off the streets, out of your town, out of your county, out of your State, and out of this Nation, and to stop it from coming into this Nation.

Now \$4 billion is peanuts when we are spending well over \$280 billion on our defense budget, while at the same time, those whom we are fighting are making billions. This is the least that we can do on this war on drugs.

Mr. Chairman, I rise in strong support of the Hunter-Robinson amendment. It is an amendment that will add an essential element to our war on drugs.

Make no mistake about it, we are at war. Drugs threaten to tear apart the very fabric of our system. We have a political and economic system that rests upon the productivity, understanding, and participation by its citizenry. Can we long endure while the poison of drug addiction lowers our productivity, subverts our education system, and forces so many to become society's dropouts?

This bill is filled with provisions that might be effective, but we all know the problem is immense. We've got to find a way to stop the flow. There's obviously great amounts of money to be made at the expense of everything we hold dear. This money is an overwhelming incentive to find ways to dump these poisons on our shores. Let's vote for an amendment that could prove to be the one disincentive, the one obstacle that drug runners cannot overcome. For the sake of our system, for the sake of our children—let this House agree that there is at least a limited role for the military in this war—let's start winning these battles—let's win this war.

Mr. HUNTER. Mr. Chairman, I yield my remaining 2 minutes to the gentleman from Arkansas [Mr. ROBINSON], a cosponsor of this amendment, to close debate.

Mr. ROBINSON. Mr. Chairman, as a former student of criminal justice with an undergraduate and graduate major in criminal justice, as a former teacher of criminal justice, and as a practitioner in the field for over 20 years serving in such capacities as police chief, sheriff, director of a State department of public safety over the State police and National Guard, I have reviewed our total drug package, and I find it without flaw, with the exception of a lack of willingness to commit the only true resource that we have in this country in our war against drugs, our military.

I have tried to listen to some of the arguments today, and they remind me of arguments that were made against me several years ago when we had armed robberies in convenience stores in Little Rock. Armed robbers would go in and blow the clerks away.

I decided that I would put deputies in the back room with shotguns and put a sign out front, "If you enter this store, you're going to be blown away." All the ACLU types came down there and said, "Oh, it's badly thought through. You might kill someone. It's a fundamental change. Oh, my God, the military will be next."

After I did that, we did not have one single armed robbery in the convenience stores, either in those stores that were covered, or the ones not covered, because I slipped some deputies into those stores also.

I have listened to the arguments. "We should wait. Let's wait, and let 12 more tons of heroin come through, 150 more tons of cocaine this year, 60 more tons of marijuana, 200 tons of hashish."

It is just our children and our Nation. The Communists have the best thing going for them that they have ever had, drug trafficking, the most powerful weapon in the world.

For my friend, the gentleman from New York, let me quote Mayor Koch: "Give me the Army, the Navy, the Air Force." His own mayor wants the military forces. We are telling the President of the United States: "You can't think about it. You can't have a jelly bean. You shall deploy the members of the armed services." It's not up to Weinberger; the President is the Chief Executive Officer of this country. He must deploy the resources that he has to fight this terrible, terrible crime.

The CHAIRMAN. All time on the Hunter amendment, No. 17, has expired.

PARLIAMENTARY INQUIRY

Mr. DICKINSON. Mr. Chairman, I have 3 minutes remaining on the Bennett amendment, which is affected by this. Would it be appropriate for me to take that at this time?

The CHAIRMAN. The Chair advises the gentleman that he may take his time now or he may reserve his time.

Mr. DICKINSON. Mr. Chairman, I would prefer to take it at this time.

The CHAIRMAN. The gentleman from Alabama [Mr. DICKINSON] is recognized for 3 minutes.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Chairman, I do not think that there is anyone in this body who has been more critical of the President and the Department of Defense with regard to the use of military assets, and I certainly feel a certain kinship with regard to the Hunter amendment. However, I think that there are certain facts that we should be well aware of.

What this in effect requires is that the President shall—it mandates it. For that reason I am concerned that this may in fact push the President—or give him the opportunity, depending on your outlook—for a veto.

Let me tell the Members what it does direct the President to do. The President shall use sufficient numbers so that during the times of darkness there is continual air coverage on the entire southern border of the United States. Well, those who are familiar with the AWACS and the E-2C assets of this Nation realize that whenever you consider that along with that equipment that is also in maintenance, very quickly that coverage would have to be downgraded as not being combat ready, and I am not certain that you could get the President of the United States to agree to drive our forces to the point that they are not combat ready.

Mr. DICKINSON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, following on what the distinguished gentleman has said, everybody wants to accomplish what the framers of the amendment would like to see done, and that is the elimination of drugs coming into this country.

□ 1230

Everybody has the simplistic solution, well, turn it over to the military. They have all these people and planes and tanks and so forth, let them do it. Fine.

But in our bill, in title II, we say give us 45 days, until March, to make a study and report back what they would propose to do. That is in the bill.

The gentleman from Florida [Mr. BENNETT] gives the Attorney General the right to call in the Secretary of Defense for whatever assets he deems necessary and which the Secretary of Defense would make available.

Nobody can say that this President and this administration are not hard over the enforcement of our drug control laws, so nobody is accusing him of dragging his feet.

What I am trying to do and what the resisters to this amendment would do is say, look, let us not go off half-cocked here without knowing what we are doing.

This amendment has had no hearings. We do not know the effect of posse comitatus. The gentleman says it would allow hot pursuit. What are we going to do, allow the military to have the authority to shoot down civilian aircraft if they are not forced down?

What we are trying to do is give us an opportunity to set in a reasonable framework a way to do this. Give us the 45 days or until March 1 to make a report to see what is necessary. Do not mandate the Secretary of Defense to do anything or the President.

The Bennett amendment is good; the Hunter amendment is not workable.

Mr. Chairman, the administration opposes this bill which mandates deployment of military equipment and personnel to halt the flow of drugs by aircraft and surface vessels; mandates continuous employment of military radar surveillance aircraft; and mandates direct military forces participation in seizures and arrests.

I have three major concerns regarding the bill. First, the legislative mandate for the military to substantially halt the flow of drugs by aircraft and vessels within 45 days of enactment represents a herculean challenge. The FAA has reported that there were over 78,000 known general aviation aircraft which flew into the United States across the southern border during 1985. Further, that there are over 290,000 registered and 4,000 unregistered general aviation aircraft in the United States. Without adequate intelligence, the only way to comply with this legislative mandate would be to intercept all inbound noncommercial air-

craft. The surface vessel challenge would be even more formidable. The United States has an enormous coastal border, filled with coves, inlets, and other topography which facilitate concealed entry by water. There are over 160,000 documented U.S.-registered vessels including yachts, tugs, barges, and other commercial vessels. On average, an additional 170 foreign vessels arrive at U.S. ports daily. The net result is that the legislation calls for a continuous 4,000-mile naval blockade of our coastlines.

The second major concern relates to the requirement for continuous nighttime airborne radar platform surveillance around the southern U.S. border. Compliance with this mandate would require 32 E-2C aircraft be added to the Navy inventory or the use of 25 E-3 AWACS aircraft per night to sustain continuous coverage. Apart from the potential impact to military preparedness, it would be expected that drug traffickers would likely revert to ship containers for movement of the contraband.

The third major concern is associated with legislative authority for military forces to participate directly in interdiction and perform civilian arrest functions. It would be inconsistent with the history and traditions of American democracy to place military forces in police work in direct confrontation with civilians.

The CHAIRMAN. The Chair would ask the gentleman from Florida [Mr. BENNETT] if he wishes to use his time at this time.

Mr. BENNETT. Mr. Chairman, I reserve the balance of my time to close the debate.

Mr. BIAGGI. Mr. Chairman, I rise in strong support of the Bennett amendment to allow our vast military resources to be used in the war on drugs. Simply put, the war against drugs is as important as any this Nation has ever fought, and who better to fight a war than the U.S. military.

Last year, this same amendment passed this House by an overwhelming margin when it was offered to the Defense Authorization bill. I spoke out in support of it then because I was convinced that the abundant resources of our Nation's Armed Forces would greatly improve our ability to interdict and seize drug shipments coming into this country. I was greatly disappointed when this vital provision was watered down in a House-Senate conference to merely allow Coast Guard personnel to be assigned to Naval ships in drug smuggling areas. That was indeed a meek response to a crisis of such monumental proportions.

But, if we needed the military's involvement in the drug war then, their participation is absolutely essential today. Consider that the House Select Committee on Narcotics estimates that 12 tons of heroin will enter the United States in 1986, along with 150 tons of cocaine and 30,000 tons of marijuana. Chances are, we may never be able to do enough to stop this drug flow entirely, but we shouldn't be reluctant to try. Historically, we have not used our military to interdict drugs, but historically we have never faced a drug crisis of this magnitude. Tough times demand tough actions and that is what this amendment proposes.

As chairman of the Coast Guard Subcommittee during the years 1975-80, I placed a much greater emphasis than ever before on the Coast Guard's antidrug smuggling operations. As a result, drug seizures and arrests increased dramatically during that time. For example, the Coast Guard seized only one drug smuggling vessel in 1974, compared to 149 seized in 1980. In addition, the Coast Guard confiscated 38,501 pounds of marijuana in 1974, compared to 2,494,774 pounds in 1980. I am pleased to report that these aggressive antidrug smuggling activities by the Coast Guard are continuing.

I raise this fact to illustrate just how successful an even limited role by the U.S. military can be in the task of drug interdiction. I have to believe that if we made a full commitment, as proposed by the Bennett amendment, we would be rewarded accordingly.

The head of the U.S. Drug Enforcement Agency has said that he would need an additional 40,000 agents to effectively combat the current level of drug trafficking, at a cost of about \$1 billion. Obviously, such an expenditure is not possible given the tight budget constraints that we are now working under. Yet, the military, with their vast resources, offers us the personnel and equipment that is necessary without anywhere near the cost of 40,000 new drug agents.

Consider for a moment that Ed Koch, the mayor of our Nation's largest city, is a leading and outspoken supporter of this proposal. His motives are quite simple. The drug crisis has hit nowhere in our country harder than New York City and I am proud to say that my home city has responded in tough and proper fashion. However, Mayor Koch knows, just as I do, that once the illicit drugs reach our city streets, we are waging a losing battle. We need to do more to stop the flow of drugs before they reach our borders and that is precisely what this amendment is all about.

Doesn't it seem strange that we're authorizing some \$3 billion in this bill to increase the Federal Government's role in all aspects of the drug war—an ambitious and commendable effort—and yet we are leaving perhaps our greatest single resource, the U.S. military, on the sidelines? I believe that is a terrible mistake and would seriously undercut all the other good we're doing in this bill. We can and should correct that flaw by adopting the Bennett amendment.

The CHAIRMAN. All time has expired on the Hunter amendment.

The question is on the amendment offered by the gentleman from California [Mr. HUNTER] to the amendment offered by the gentleman from Florida [Mr. BENNETT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 237, noes 177, not voting 17, as follows:

[Roll No. 367]

AYES—237

Anderson	Hatcher	Rahall
Andrews	Hendon	Regula
Annunzio	Henry	Reid
Applegate	Hertel	Richardson
Archer	Hiler	Ridge
Armey	Hopkins	Rinaldo
Badham	Howard	Ritter
Barnard	Hubbard	Roberts
Bartlett	Hunter	Robinson
Barton	Hyde	Roe
Bates	Ireland	Roemer
Bennett	Jacobs	Rogers
Bentley	Jenkins	Roth
Biaggi	Jones (OK)	Roukema
Billirakis	Kanjorski	Rowland (CT)
Bliley	Kaptur	Rowland (GA)
Boehlert	Kasich	Russo
Boggs	Kemp	Saxton
Boner (TN)	Kindness	Schaefer
Boulter	Kolbe	Schuetz
Broomfield	Kolter	Schulze
Brown (CO)	Kramer	Schumer
Bryant	LaFalce	Sensenbrenner
Burton (IN)	Lagomarsino	Shaw
Callahan	Lantos	Shelby
Carper	Latta	Shumway
Carr	Lehman (CA)	Shuster
Chapman	Lent	Siljander
Clinger	Lewis (CA)	Skeen
Coats	Lewis (FL)	Slattery
Cobey	Lightfoot	Slaughter
Coble	Lipinski	Smith (FL)
Coleman (MO)	Livingston	Smith (IA)
Coleman (TX)	Lloyd	Smith (NE)
Combust	Loeffler	Smith (NJ)
Courter	Lott	Smith, Denny
Craig	Lowery (CA)	(OR)
Crane	Lujan	Smith, Robert
Dannemeyer	Lukens	(NH)
Darden	Lundine	Smith, Robert
Daschle	Mack	(OR)
Davis	MacKay	Snowe
de la Garza	Madigan	Snyder
DeLay	Manton	Solomon
DeWine	Marlenee	Spence
DioGuardi	Martin (IL)	St Germain
Donnelly	Martin (NY)	Staggers
Dornan (CA)	McCain	Stallings
Dowdy	McCandless	Stangeland
Dreier	McCloskey	Stenholm
Duncan	McCurdy	Strang
Dwyer	McGrath	Stump
Dyson	McHugh	Sundquist
Early	McKernan	Sweeney
Eckart (OH)	McKinney	Swindall
Eckert (NY)	McMillan	Tallon
Edwards (OK)	Meyers	Tauke
Emerson	Mica	Tauzin
Erdreich	Michel	Taylor
Evans (IA)	Miller (OH)	Thomas (CA)
Fawell	Miller (WA)	Thomas (GA)
Fiedler	Molinar	Torricelli
Fields	Mollohan	Traficant
Florio	Monson	Vander Jagt
Franklin	Moore	Volkmer
Frenzel	Moorhead	Vucanovich
Frost	Morrison (WA)	Walgren
Gallo	Murphy	Walker
Gaydos	Natcher	Watkins
Gekas	Nowak	Waxman
Gingrich	Ortiz	Weber
Goodling	Packard	Whittaker
Gradison	Parris	Wilson
Gregg	Pashayan	Wise
Guarini	Penny	Wolf
Gundersen	Perkins	Wortley
Hall (OH)	Petri	Wyden
Hall, Ralph	Pickle	Wylie
Hammerschmidt	Porter	Yatron
Hartnett	Quillen	Zschau

NOES—177

Ackerman	Beilenson	Boxer
Akaka	Bereuter	Brooks
Alexander	Berman	Brown (CA)
Anthony	Bevill	Bruce
Aspin	Boland	Bustamante
Atkins	Bonior (MI)	Byron
AuCoin	Bonker	Carney
Barnes	Borski	Chandler
Bateman	Bosco	Chappell
Bedell	Boucher	Cheney

Clay	Hawkins	Obey
Coelho	Hayes	Olin
Collins	Hefner	Owens
Conte	Hillis	Oxley
Conyers	Horton	Panetta
Cooper	Hoyer	Pease
Coughlin	Hughes	Pepper
Coyne	Hutto	Price
Crockett	Jeffords	Pursell
Daniel	Johnson	Rangel
Daub	Jones (NC)	Ray
Dellums	Jones (TN)	Rodino
Derrick	Kastenmeier	Rose
Dickinson	Kennelly	Roybal
Dicks	Kildee	Sabo
Dingell	Klecza	Savage
Dixon	Kostmayer	Scheuer
Dorgan (ND)	Leach (IA)	Schneider
Downey	Leath (TX)	Schroeder
Durbin	Lehman (FL)	Seiberling
Dymally	Leland	Sharp
Edgar	Levin (MI)	Sisisky
Edwards (CA)	Levine (CA)	Skelton
English	Long	Solarz
Evans (IL)	Lowry (WA)	Spratt
Fascell	Lungren	Stark
Fazio	Martinez	Stokes
Feighan	Matsui	Studds
Fish	Mavroules	Swift
Flippo	Mazzoli	Synar
Foglietta	McCollum	Torres
Foley	McDade	Towns
Ford (MI)	McEwen	Traxler
Ford (TN)	Mikulski	Udall
Frank	Miller (CA)	Valentine
Fuqua	Mineta	Vento
Garcia	Mitchell	Visclosky
Gejdenson	Moakley	Waldon
Gephardt	Montgomery	Weiss
Gibbons	Moody	Wheat
Gilman	Morrison (CT)	Whitehurst
Glickman	Mrazek	Whitley
Gonzalez	Murtha	Williams
Gordon	Myers	Wirth
Gray (IL)	Neal	Wolpe
Gray (PA)	Nichols	Wright
Green	Nielson	Yates
Hamilton	Oaker	Young (FL)
Hansen	Oberstar	Young (MO)

NOT VOTING—17

Breaux	Holt	Sikorski
Burton (CA)	Huckaby	Stratton
Campbell	Markey	Weaver
Chappie	Nelson	Whitten
Fowler	Rostenkowski	Young (AK)
Grotberg	Rudd	

□ 1250

Messrs. EMERSON, BLILEY, RAHALL, BATES, GUNDERSON, ANNUNZIO, McCLOSKEY, HOWARD, PERKINS, CARR, NATCHER, ORTIZ, ST GERMAIN, and Mrs. ROUKEMA changed their votes from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Chair would inform the Members that 1½ minutes remain in debate on the pending amendment offered by the gentleman from Florida [Mr. BENNETT].

PARLIAMENTARY INQUIRY

Mr. FASCELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FASCELL. Mr. Chairman, is the pending order of business consideration of the Bennett amendment?

The CHAIRMAN. The pending order of business is the Bennett amendment, as amended.

The gentleman from Florida [Mr. BENNETT] has 1½ minutes remaining.

The gentleman from Florida [Mr. BENNETT] is recognized.

Mr. BENNETT. Mr. Chairman, I appreciate the attention that has been given and is being given to the conclusion of this.

Mr. Chairman, the purpose of the Bennett amendment was to see to it that every ship, every airplane, every materiel of the U.S. Government, which was armed, would be in a position where it could make an arrest of a drug smuggler if that were available. So if a smuggler saw a ship, he would know that he could be arrested, regardless of what other personnel they had on it besides Navy or other type of personnel. That is the real purpose of that amendment, the one which I introduced. It was very carefully couched, seeing to it that the Department of State, the Department of Justice and all these people agreed, and the Department of Defense decided it was not in any way an infringement on training or preparedness or anything like that. It is a very simple amendment.

To that there has now been added an amendment which I voted for, Mr. HUNTER's amendment, which is a much more dramatic amendment which has now passed the House. And I believe we probably should have a record vote on the thing in its final passage so that everybody will have a chance to express themselves again.

I must say, however, that my amendment as a whole overwhelmingly passed the House, 450-some-odd to a few score a year or so ago. This is a much narrower vote. I hope it will not be interpreted as in any way diminishing the part of my amendment, which still exists.

PARLIAMENTARY INQUIRIES

Mr. BENNETT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BENNETT. Mr. Chairman, all of the Bennett amendment is still in this bill, as I understand it, is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. BENNETT. That is the end of my remarks.

Mr. FASCELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FASCELL. Mr. Chairman, am I correct that the pending question is on the Bennett amendment as amended by the Hunter amendment?

The CHAIRMAN. The gentleman is correct.

The question is on the amendment offered by the gentleman from Florida [Mr. BENNETT], as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FASCELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 359, noes 52, not voting 20, as follows:

[Roll No. 368]

AYES—359

Ackerman	Dyson	Kostmayer
Akaka	Early	Kramer
Alexander	Eckart (OH)	LaFalce
Anderson	Eckert (NY)	Lagomarsino
Andrews	Edgar	Lantos
Annunzio	Edwards (OK)	Latta
Anthony	Emerson	Leach (IA)
Applegate	English	Leath (TX)
Archer	Erdreich	Lehman (CA)
Army	Evans (IA)	Leland
Badham	Evans (IL)	Lent
Barnard	Fascell	Levin (MI)
Bartlett	Fawell	Levine (CA)
Barton	Fazio	Lewis (CA)
Bateman	Feighan	Lewis (FL)
Bates	Fiedler	Lightfoot
Bennett	Fields	Lipinski
Bentley	Fish	Livingston
Bereuter	Florio	Lloyd
Bevill	Foglietta	Loeffler
Biaggi	Ford (MI)	Long
Billrakis	Ford (TN)	Lott
Billey	Franklin	Lowery (CA)
Boehlert	Frenzel	Lujan
Boland	Frost	Lukens
Boner (TN)	Fuqua	Lundine
Bonker	Gallo	Lungren
Borski	Garcia	Mack
Boucher	Gaydos	MacKay
Boulter	Gejdenson	Madigan
Boxer	Gekas	Manton
Brooks	Gephardt	Marienne
Broomfield	Gibbons	Martin (IL)
Brown (CA)	Gilman	Martin (NY)
Brown (CO)	Gingrich	Martinez
Bruce	Goodling	Matsui
Bryant	Gordon	Mavroules
Burton (IN)	Gradison	Mazzoli
Bustamante	Gray (IL)	McCain
Byron	Gray (PA)	McCandless
Carney	Gregg	McCloskey
Carper	Guarini	McCollum
Carr	Gunderson	McCurdy
Chandler	Hall (OH)	McDade
Chapman	Hall, Ralph	McEwen
Chappell	Hamilton	McGrath
Cheney	Hammerschmidt	McHugh
Clinger	Hansen	McKernan
Cobey	Hartnett	McKinney
Coble	Hatcher	McMillan
Coelho	Hayes	Meyers
Coleman (MO)	Hefner	Mica
Coleman (TX)	Hendon	Michel
Combest	Henry	Mikulski
Conte	Hertel	Miller (CA)
Cooper	Hiller	Miller (OH)
Coughlin	Hillis	Miller (WA)
Courter	Hopkins	Moakley
Coyne	Horton	Molinari
Craig	Howard	Mollohan
Crane	Hubbard	Monson
Daniel	Hughes	Montgomery
Dannemeyer	Hunter	Moore
Darden	Hutto	Moorhead
Daschle	Hyde	Morrison (WA)
Daub	Ireland	Mrazek
Davis	Jacobs	Murphy
de la Garza	Jeffords	Murtha
DeLay	Jenkins	Myers
Derrick	Johnson	Natcher
DeWine	Jones (NC)	Neal
Dicks	Jones (OK)	Nelson
Dingell	Jones (TN)	Nichols
DioGuardi	Kanjorski	Nielson
Donnelly	Kaptur	Nowak
Dorgan (ND)	Kasich	Oakar
Dornan (CA)	Kemp	Oberstar
Dowdy	Kennelly	Olin
Downey	Kildee	Ortiz
Dreier	Kindness	Owens
Duncan	Kieccka	Oxley
Durbin	Kolbe	Packard
Dwyer	Kolter	Parris

Pashayan
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Roemer
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saxton
Schafer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner

Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
(OR)
Smith, Robert
(NH)
Smith, Robert
(OR)
Snowe
Snyder
Solaz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Strang
Stump
Sundquist
Sweeney
Swindall
Tallon

Tauke
Tausin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torrice
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Volkmer
Vucanovich
Waldon
Walgren
Walker
Watkins
Waxman
Weber
Whitehurst
Whitley
Whittaker
Williams
Wilson
Wirth
Wise
Wolf
Wortley
Wright
Wyden
Wylie
Yatron
Young (FL)
Young (MO)
Zschau

NOES—52

Aspin
Atkins
AuCoin
Barnes
Bedell
Beilenson
Berman
Bonior (MI)
Bosco
Clay
Collins
Conyers
Crockett
Dellums
Dickinson
Dixon
Dymally
Edwards (CA)

Foley
Frank
Glickman
Gonzalez
Green
Hawkins
Hoyer
Kastenmeier
Lehman (FL)
Lowry (WA)
Mineta
Mitchell
Moody
Morrison (CT)
Obey
Panetta
Pease
Ray

Rodino
Roybal
Sabo
Savage
Seiberling
Stark
Stokes
Studds
Swift
Synar
Towns
Visclosky
Weiss
Wheat
Wolpe
Yates

NOT VOTING—20

Boggs
Breaux
Burton (CA)
Callahan
Campbell
Chappie
Coats

Flippo
Fowler
Grotberg
Holt
Huckaby
Markay
Rostenkowski

□ 1305

Mr. TORRES changed his vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

□ 1315

The CHAIRMAN. Under the rule, amendment No. 18 is now in order.

Mr. BRYANT. Mr. Chairman, I have amendment No. 18 at the desk. However, in view of the passage of the preceding amendment which accomplishes all of its purposes, I decline to offer my amendment at this time.

The CHAIRMAN. Under the rule, amendment No. 19 is now in order.

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE: Page 43, strike out line 10 and on page 77 strike out line 12 and all that follows through line 12 on page 79.

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. CRANE] will be recognized for 5 minutes and a Member opposed thereto will be recognized for 5 minutes.

Mr. GIBBONS. Mr. Chairman, I stand in opposition to the Crane amendment.

The CHAIRMAN. The gentleman from Florida [Mr. GIBBONS] will be recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Illinois [Mr. CRANE].

PARLIAMENTARY INQUIRIES

Mr. DANIEL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DANIEL. Mr. Chairman, has title II been completed? Are there any further amendments to title II?

The CHAIRMAN. The Chair states to the gentleman that the committee must proceed by amendment number, according to the report of the Rules Committee.

Mr. DANIEL. I thank the Chair.

Mr. ENGLISH. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ENGLISH. Mr. Chairman, is this amendment number 19?

The CHAIRMAN. The gentleman is correct.

Mr. ENGLISH. I thank the Chair.

Mr. CRANE. Mr. Chairman, the first of my two amendments deals with the question of the Customs Forfeiture Fund. When the customs forfeiture Fund was initially created, there was some debate and some disagreement over the advisability of proceeding in this manner rather than going through standard appropriations routines and authorizations. I think that in this instance, there is no legitimate basis for either expanding the purposes for which the moneys in the customs forfeiture fund may be used, nor is there a legitimate basis for calling for a doubling of that fund.

The increased authorizations in this bill are a 45-percent increase over the previous fiscal year, to begin with. The doubling of the cap on the forfeiture fund from \$10 million to \$20 million, a relatively inconsequential amount of money perhaps by our standards here, but on the other hand, I do not think that is justified. I do not think it is advisable. I think the secondary point I made about the accountability as to how these moneys are going to be spent at a time when we are having difficulty maintaining appropriate

oversight, why expand the authority of the Customs Office to utilize these moneys in a broader discretionary manner than exists under the current law.

Mr. Chairman, my amendment really does not do anything in the way of altering existing law. It simply says, maintain the current jurisdictions and authority under the customs forfeiture fund and maintain the current existing cap of \$10 million.

One final point I would make is that the Customs Commissioner, when he appeared before our committee, did not request this increase. He did not call for this doubling of the cap in the forfeiture fund.

Second, under the appropriations control we have, only \$8 million currently of the \$10 million that is eligible under that cap has been appropriated. Mr. Chairman, I urge my colleagues to support what I think is a strengthening amendment to this total bill.

The CHAIRMAN. The Chair recognizes the gentleman from Florida [Mr. GIBBONS] in opposition to the amendment.

Mr. GIBBONS. Mr. Chairman, because the Customs Forfeiture Fund that is currently in law would expire in 1987, the Crane amendment would, in effect, put an end to it. A number of years ago, we painfully worked out with the Office of Management and Budget and the Budget Committee and others this Customs Forfeiture Fund. The forfeitures arise in the fund when drug smuggling equipment, planes and ships, are forfeited and automobiles are forfeited. Sometimes residences are forfeited to the U.S. Government because they are involved in the handling of contraband. It is nothing new; there is a 200-year-old history of that in this country.

The forfeiture fund was put in there to make it a little more flexible and a little more possible to get things done and to get them done expeditiously.

The forfeiture fund is not a wide open fund. Every penny that is spent out of the forfeiture fund must be appropriated through the normal appropriations process. It must be included in the appropriations bill and passed. It is just a trust fund dedicated for the purpose of getting done in an expeditious manner the kind of work that must be done to take transportation equipment and convert it to Government use so that it can be used in the war on drugs.

I hope that we will not spend a lot of time on this amendment. I hope we will vote it down very rapidly.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the amendment. There are so many people that ask where the money comes from and how are we going to pay for this bill. Under the forfeiture trust fund, because of the good work that Customs is doing, they managed to get the equipment to sell the equipment and to be able to do a variety of things out of this fund under the guidelines of the proper appropriation committee.

Some of the things that they are allowed to do under the legislation is to subsidize the investigative cost that leads up to the seizures. The cost of equipment for law enforcement functions. The cost of reimbursing private citizens for expenses incurred during these investigations, and the cost of publicizing the availability of awards.

This has really worked and sometimes we hear people say that "If it ain't broke, don't fix it." The fund has been viable; it pays for itself. It has the proper legislative guidelines and I do hope that we can get a vote against this amendment to repeal it.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding to me.

Mr. Chairman, I would like to oppose this particular amendment and commend the gentleman from Florida for opposing it.

I would also like to say that the forfeiture fund has been one that has been extremely helpful to law enforcement. It is one that is dedicated totally to law enforcement. It is money for the most part that is collected through these various operations with drug traffickers. So it seems entirely fitting that a portion of those funds that are collected be set aside and dedicated to law enforcement. I think that it makes imminently good sense, as the committee did, to raise that level up to \$20 million.

Mr. GIBBONS. I thank the gentleman.

Mr. Chairman, I ask for a "no" vote.

□ 1325

The CHAIRMAN. The Chair will inquire, does the gentleman from Florida [Mr. GIBBONS] yield back his time?

Mr. GIBBONS. I do, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. CRANE].

The amendment was rejected.

AMENDMENT OFFERED BY MR. CRANE, AS MODIFIED

The CHAIRMAN. Under the rule, amendment No. 20 is in order.

Mr. CRANE. Mr. Chairman, I offer an amendment, but first I would make a unanimous-consent request.

Mr. Chairman, I ask unanimous consent that the language that I present-

ed to the desk earlier this morning, with a very minor technical correction which I have shown to the majority, be made in order. The one that is printed in the report unfortunately had a shift of about a half a million dollars in one category versus another, and I think I have explained it to the satisfaction of my distinguished colleague.

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read the amendment, as modified, as follows:

Amendment offered by Mr. CRANE, as modified: On page 80, line 10, strike "\$99,300,000" and insert "\$30,730,000"; on page 80, line 16, strike "\$137,000,000" and insert "\$95,000,000".

On page 81, after line 7, insert the following:

"(3) There are authorized to be appropriated to the Customs Service for fiscal year 1988 \$27,960,000 for salaries and expenses of personnel to be used in carrying out drug enforcement activities, and \$24,500,000 for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, of the air interdiction program.

"(4) There are authorized to be appropriated to the Customs Service for fiscal year 1989 \$36,710,000 for salaries and expenses of personnel to be used in carrying out drug enforcement activities, and \$15,000,000 for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, of the air interdiction program."

Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended by renumbering paragraphs (3) through (7) as paragraphs (5) through (9).

Mr. CRANE (during the reading). Mr. Chairman, if the majority is satisfied with the explanation I made as far as the technical alteration is concerned, I would ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. There being no objection, the amendment is considered as read.

Is there objection to the modification?

Mr. ENGLISH. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

The Clerk will report the original amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE. Page 80, line 10, strike out "\$99,300,000" and insert "\$28,730,000".

Page 80, line 16, strike out "\$137,000,000" and insert "\$97,000,000".

Page 81, after line 7, insert the following:

"(3) There are authorized to be appropriated to the Customs Service for fiscal year 1988 \$27,460,000 for salaries and expenses of personnel to be used in carrying out drug enforcement activities, and \$25,000,000 for

additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, of the air interdiction program.

"(4) There are authorized to be appropriated to the Customs Service for fiscal year 1989 \$36,210,000 for salaries and expenses of personnel to be used in carrying out drug enforcement activities, and \$15,500,000 for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, of the air interdiction program."

Mr. ENGLISH (during the reading). Mr. Chairman, I have no objection to the modification.

The CHAIRMAN. Does the Chair understand that the gentleman withdraws his objection to the modification?

Mr. ENGLISH. I have no objection to considering the amendment, as modified, Mr. Chairman.

The CHAIRMAN. The Chair understands, then, that the gentleman withdraws his objection to the modification of the amendment as offered by the gentleman from Illinois [Mr. CRANE].

Mr. ENGLISH. I withdraw my objection, Mr. Chairman.

The CHAIRMAN. Is there any further objection to the modification?

Mr. MICHEL. Reserving the right to object, and I shall not object, Mr. Chairman, the Clerk was reading the corrected figures, and there was really only one short paragraph remaining to be read. I wonder if we might have that read, if there is an alteration in those figures, so that I might make the proper annotation.

The CHAIRMAN. Without objection, the Clerk will continue reading.

The Clerk continued the reading of the amendment.

Mr. CRANE (during the reading). Mr. Chairman, I think that the Clerk is reading the original version as it was printed rather than the corrected one. I brought a copy up to the desk, but let me deliver a second one to the desk.

Mr. MICHEL. My request, Mr. Chairman, was that the modified amendment be read in its entirety so that we might make the proper corrections. There were only a few sentences left.

The CHAIRMAN. The Chair will state that there being no objection to the modification, the Clerk will read the modified language in toto.

The Clerk read the amendment offered by Mr. CRANE, as modified.

The CHAIRMAN. The Chair understands that the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], has reserved the right to object.

Mr. MICHEL. I withdraw my reservation of objection, Mr. Chairman.

The CHAIRMAN. Without objection, the amendment is modified.

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. CRANE] is recognized for 5 minutes in support of his amendment.

Mr. CRANE. Mr. Chairman, when we contrast the language of this amendment with the language in the existing bill before us, we will see that the total dollar figures are not more than \$3 million over the 3-year period at variance. What my amendment basically does is to spread the moneys that we have appropriated to Customs over a 3-year period on the ground that they cannot possibly effectively utilize those funds in just a single year. And it does not just do this in an arbitrary one-third, one-third, one-third way. Most of the spread of the authorization deals with the area of acquiring additional personnel to the Customs Service, and in the area, by contrast of operations and maintenance in the air interdiction program, virtually all of the money is up front available to them in the first year where that money can be utilized effectively in a single year. Otherwise, as I said, it spreads these sums out in fiscal year 1988 and through 1989, and I think that that is dictated in terms of a responsible expenditure of money.

There is no point in having the moneys lying around idle, which must inevitably happen, because they cannot come up to speed in terms of what we are authorizing them to do in a single year.

With that, Mr. Chairman, unless there is a question, I would yield back the balance of my time.

The CHAIRMAN. The gentleman from Illinois [Mr. CRANE] yields back the balance of his time.

For what purpose does the gentleman from Oklahoma [Mr. ENGLISH] rise?

Mr. ENGLISH. I rise in opposition to the amendment, Mr. Chairman.

The CHAIRMAN. Under the rule, the gentleman from Oklahoma [Mr. ENGLISH] is recognized for 5 minutes.

Mr. ENGLISH. Mr. Chairman, I yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Chairman, I earnestly hope that we would not adopt this Crane amendment. It reduces the amount available under the bill to the Customs Office and asks that office to do in 3 years what we have asked them to do in 1 year. It, therefore, would reduce by one-third the impact of the bill.

The Customs Office has been undermanned and underfunded. They are required right now to operate against a highly mobile and highly funded opposition in this drug culture with old World War II vintage radios in their cars. Drug czars and operatives can go into a retail store and buy a monitoring system that can track their radios and bust in on their communications

and know what they are planning and what they are doing.

They need this help. We need more drug monitoring personnel for the Customs Office. We need a great many things, and I am convinced and the committee was convinced that they can use this money in the first year, and we can give them some more for the next 2 years.

The CHAIRMAN. I urge a no vote on this amendment.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. Mr. Chairman, I have a couple of statements I would like to make, and then I would be happy to yield to the gentleman.

There are a couple of points that should be underscored. Right now we do not have enough Customs personnel on line to be able to fly the aircraft the Customs Service has more than 8 hours a day 5 days a week.

□ 1335

This would allow us to go up to 16 hours, 7 days a week, as the Customs Service has requested. The Congress has provided 40 new interceptor boats, but we have no one who can man those boats.

I have talked to the Commissioner of Customs as recently as yesterday. He assured me that there is no question that they would be able to acquire all these personnel, be able to train them and put them on line within 1 year.

Also, I think it should be understood that we are talking about pulling together the resources of the United States in these command and control centers, something that we do not have today. The design contracts will be let within the next few days.

The question is whether we are going to have the money available next year so that we can move ahead, build the command and control centers and have them in operation next year.

We desperately need to get this war underway. We do not need a delay in the war on drugs for another 3 years.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I am happy to yield to the distinguished gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, to show what this would do if what we plan goes through, we will add approximately 800 positions to the Customs Service. That is almost enough positions to operate 200 slots—or 150 slots 24 hours a day, 7 days a week, that Customs must operate.

Lest anyone think that Customs is a bloated overgrown agency, they should know that in 20 years the total number of people in Customs has increased by 39 warm bodies, only 39 people. Foreign trade has jumped from \$50 to \$700 billion in that time

and the number of air passengers who must be processed has quadrupled in that time.

This is an agency that needs help and to adopt the Crane amendment would be a serious setback to what we are trying to do.

Mr. ENGLISH. I might also say, Mr. Chairman, that according to the General Accounting Office and the study and the report that they made to my subcommittee on Tuesday, we have boats today that are setting around because we do not have the personnel to put in them. That does not count those 40 new interceptors that I just mentioned.

We also find that to go up to 16 hours a day, 7 days a week, requires 650 personnel. Today the Customs Service has in their area branch only 280 personnel.

We have new interceptors that are contained within this budget that need to be brought online. We have to have those interceptors to be able to track these drug traffickers and be able to apprehend them. We only have seven interceptors today.

We find that even if we are able to detect those smugglers, unless we have those interceptors, we are not going to be able to make this apprehension.

Communications today, drug smugglers are listening in on what the law enforcement personnel are saying, the way they are shifting their forces around.

There is no question that we need secure communications. We have to be able to prevent the smugglers from listening in and knowing what the game plan is as far as the war on drugs is concerned. Today there simply is not in existence any type of secure communications.

But the bottom line it comes down to I think and the real issue that we are facing is this question: Are we going to get the war on drugs launched today? Is it going to be something that the people of this country can look forward to within the next 12 months or is it going to be stretched over the next 2, 3, and 4 years, and goodness knows how many delays we may have beyond that.

I think, Mr. Chairman, that the case has been made time and time again over the past number of hours about the importance of the war on drugs. Let us get it going today.

Mr. CRANE. Mr. Chairman, could I make a unanimous-consent request that the time I relinquished on my side might be yielded to the gentleman from Oklahoma for a brief colloquy?

The CHAIRMAN. The gentleman may ask unanimous consent to reclaim his time.

Mr. CRANE. Mr. Chairman, I ask unanimous consent to reclaim my time.

The CHAIRMAN. Without objection, the gentleman from Illinois [Mr. CRANE] is recognized for 3 minutes.

There was no objection.

Mr. CRANE. Mr. Chairman, very briefly, I would like to make one observation about the total funding levels in my amendment versus what is in the committee bill.

On personnel and expenses, the committee bill has \$99.3 million that is authorized. In mine it is \$99.4 million. There is a differential of about \$4 million only there.

On operations and maintenance in the Air Interdiction Program, the committee bill has \$137 million authorized and my amendment has \$134.5 million.

The reason I mentioned this is the dollar figures are essentially the same. I agree with the distinguished gentleman from Oklahoma about the importance of this and that is why in terms of the spread of the moneys authorized in my amendment over a 3-year period, most of that money is up front in the first year.

My only argument is, and as the distinguished majority leader pointed out, they may be able to absorb it all. Maybe they will need more next year; but right now we do not know that and I would argue that what we are authorizing up front in this first year I do not think can be effectively utilized in their training program.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I appreciate the gentleman yielding.

I would simply again stress that the Commissioner of Customs told me yesterday that they would be able to digest the personnel and the funds requested within this provision, or within the House bill, and do it within 1 year.

So the real issue we are facing is whether we are going to get the war on now or whether we are going to wait 3 years until we finally get everything in place.

I would also point out that from the standpoint of command and control, those are centers that we need now. We cannot stretch those out over 3 years.

Mr. CRANE. Mr. Chairman, if I can reclaim my time just a second, that money is provided under my amendment in the first year. The command and control and communications, all of that money is up front in the first year.

The area of the spread-out is primarily in the category of acquisitions of additional personnel that will have to be trained.

I would submit that based upon past experience, you are not going to bring that army on board in the first year

and be able effectively to spend all that money that first year.

We can change that next year if the Commissioner so advises us, but remember, he told us he could live with a freeze and do his job in 1985. That may have been because we are all trying to control expenditures here, but in 1986 with the modest increases provided in the authorizations for that office, they did not express their indication that they were understaffed or incapable of handling the workload.

Now we have made a 45-percent increase. My amendment does not alter that in terms of the total sum. It simply phases it in, as I say, in the addition of personnel.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield further?

Mr. CRANE. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, the real key, though, in order to operate those centers, we have to have personnel. We have to have people. In order to operate the boats and the aircraft, we need people. That is where the problem is.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from Illinois [Mr. CRANE], as modified.

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CRANE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 12, noes 395, not voting 24, as follows:

[Roll No. 369]

AYES—12

Brown (CO)	Frenzel	Nielson
Cheney	Gekas	Porter
Crane	McCandless	Shelby
Dannemeyer	Monson	Walker

NOES—395

Akaka	Boehlert	Coble
Alexander	Boggs	Coelho
Anderson	Boland	Coleman (MO)
Andrews	Boner (TN)	Coleman (TX)
Annuzio	Bonior (MI)	Collins
Anthony	Bonker	Combust
Applegate	Borski	Conte
Archer	Bosco	Cooper
Army	Boucher	Coughlin
Aspin	Boulter	Courter
Atkins	Boxer	Coyne
AuCoin	Brooks	Craig
Badham	Broomfield	Crockett
Barnard	Bruce	Daniel
Barnes	Bryant	Darden
Bartlett	Burton (IN)	Daschle
Barton	Bustamante	Daub
Bateman	Byron	Davis
Bates	Callahan	de la Garza
Bedell	Carney	DeLay
Bellenson	Carper	Dellums
Bennett	Carr	Derrick
Bentley	Chandler	DeWine
Bereuter	Chapman	Dickinson
Berman	Chappell	Dicks
Bevill	Clay	Dingell
Biaggi	Clinger	DioGuardi
Billirakis	Coats	Dixon
Bliley	Cobey	Donnelly

Dorgan (ND)	Kolter	Pursell
Dornan (CA)	Kostmayer	Quillen
Dowdy	Kramer	Rahall
Downey	LaFalce	Rangel
Dreier	Lagomarsino	Ray
Duncan	Lantos	Regula
Durbin	Latta	Reid
Dwyer	Leach (IA)	Richardson
Dymally	Leath (TX)	Ridge
Dyson	Lehman (CA)	Rinaldo
Early	Lehman (FL)	Ritter
Eckart (OH)	Leland	Roberts
Eckert (NY)	Lent	Robinson
Edgar	Levin (MI)	Rodino
Edwards (CA)	Levine (CA)	Roe
Edwards (OK)	Lewis (CA)	Roemer
Emerson	Lewis (FL)	Rogers
English	Lightfoot	Rose
Erdreich	Lipinski	Rostenkowski
Evans (IA)	Livingston	Roth
Evans (IL)	Lloyd	Roukema
Fascell	Loeffler	Rowland (CT)
Fawell	Long	Rowland (GA)
Fazio	Lott	Roybal
Feighan	Lowery (CA)	Russo
Fiedler	Lowry (WA)	Sabo
Fields	Lujan	Savage
Fish	Lukens	Saxton
Flippo	Lundine	Schaefer
Florio	Lungren	Scheuer
Foglietta	Mack	Schroeder
Foley	MacKay	Schuetz
Ford (MI)	Madigan	Schulze
Ford (TN)	Manton	Schumer
Frank	Marlenee	Seiberling
Franklin	Martin (IL)	Sensenbrenner
Frost	Martin (NY)	Sharp
Fuqua	Martinez	Shaw
Gallo	Matsui	Shumway
Garcia	Mavroules	Shuster
Gejdenson	Mazzoli	Siljander
Gephardt	McCain	Sisk
Gibbons	McCloskey	Skeel
Gilman	McCormack	Skelton
Gingrich	McCord	Slattery
Glickman	McDade	Slaughter
Gonzalez	McEwen	Smith (FL)
Goodling	McGrath	Smith (IA)
Gordon	McHugh	Smith (NE)
Gradison	McKernan	Smith (NJ)
Gray (IL)	McKinney	Smith, Denny
Green	McMillan	(OR)
Gregg	Meyers	Smith, Robert
Guarini	Mica	(NH)
Gunderson	Michel	Smith, Robert
Hall (OH)	Mikulski	(OR)
Hall, Ralph	Miller (CA)	Snowe
Hamilton	Miller (OH)	Snyder
Hammerschmidt	Miller (WA)	Solarz
Hansen	Mineta	Solomon
Hartnett	Mitchell	Spence
Hatcher	Molinar	Spratt
Hawkins	Mollohan	St Germain
Hayes	Montgomery	Staggers
Hefner	Moody	Stallings
Hendon	Moore	Stangeland
Henry	Moorhead	Stenholm
Hertel	Morrison (CT)	Stokes
Hiler	Morrison (WA)	Strang
Hillis	Mrazek	Studds
Horton	Murphy	Stump
Howard	Murtha	Sundquist
Hoyer	Myers	Sweeney
Hubbard	Natcher	Swift
Hughes	Neal	Swindall
Hunter	Nelson	Synar
Hutto	Nichols	Tailon
Hyde	Nowak	Tauke
Ireland	Oakar	Tauzin
Jacobs	Oberstar	Taylor
Jeffords	Obey	Thomas (CA)
Jenkins	Olin	Thomas (GA)
Johnson	Ortiz	Torres
Jones (NC)	Owens	Torricelli
Jones (OK)	Oxley	Towns
Jones (TN)	Packard	Trafficant
Kanjorski	Panetta	Traxler
Kaptur	Parris	Udall
Kasich	Pashayan	Valentine
Kastenmeier	Pease	Vander Jagt
Kemp	Penny	Vento
Kennelly	Pepper	Visclosky
Kildee	Perkins	Volkmer
Kindness	Petri	Vucanovich
Kleczka	Pickle	Waldon
Kolbe	Price	Walgren

Watkins	Williams	Wyden
Waxman	Wilson	Wyllie
Weber	Wirth	Yates
Weiss	Wise	Yatron
Wheat	Wolf	Young (FL)
Whitehurst	Wolpe	Young (MO)
Whitley	Wortley	Zschau
Whittaker	Wright	

NOT VOTING—24

Ackerman	Gaydos	Rudd
Breaux	Gray (PA)	Schneider
Brown (CA)	Grotberg	Sikorski
Burton (CA)	Holt	Stark
Campbell	Hopkins	Stratton
Chapple	Huckaby	Weaver
Conyers	Markey	Whitten
Fowler	Moakley	Young (AK)

□ 1400

Messrs. COBEY, GEJDENSON, FLIPPO, and COUGHLIN changed their votes from "aye" to "no."

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

Mr. RANGEL. Mr. Chairman, I move that the Committee do now rise. The motion was agreed to.

Accordingly the Committee rose and the Speaker pro tempore [Mr. WRIGHT], having assumed the chair, Mr. CARR, Chairman of the Committee of the Whole on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes, had come to no resolution thereon.

ORDER OF AMENDMENTS TO H.R. 5484

Mr. ENGLISH. Mr. Speaker, I ask unanimous consent that the amendments numbered 25 and 26 be reversed in their order of presentation and in the subsequent debate on H.R. 5484.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

OMNIBUS DRUG ENFORCEMENT, EDUCATION, AND CONTROL ACT OF 1986

The SPEAKER pro tempore. Pursuant to House Resolution 541 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5484.

□ 1404

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes, with Mr. CARR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, consideration of amendment No. 20 had been completed.

Under the rule, amendment No. 21 is in order at this time.

Is there a Member seeking recognition to offer amendment No. 21?

Under the rule, an amendment numbered 23 is in order.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KRAMER: Page 189, after line 19, insert the following:

SEC. 624. MANDATORY LIFE SENTENCE FOR CERTAIN OFFENSES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 21.—Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b)) is amended—

(1) by inserting "in the second sentence of this subsection and" after "Except as provided"; and

(2) by adding at the end the following: "If the offense under this section consists of a distribution involving an amount of a controlled substance described in subparagraph (A), (B), (C)(i)(I), or (C)(ii) of section 401(b)(1), the convicted person, if at least 21 years of age, shall be sentenced to imprisonment for life without eligibility for parole."

(b) DISTRIBUTION IN OR NEAR SCHOOLS.—Section 405a(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended by adding at the end the following: "If the offense under this subsection consists of a distribution involving an amount of a controlled substance described in subparagraph (A), (B), (C)(i)(I), or (C)(ii) of section 401(b)(1) and the convicted person has attained the age of 21 years, the term of imprisonment imposed under this subsection shall not be less than life."

Mr. KRAMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Colorado [Mr. KRAMER] will be recognized for 5 minutes and a Member opposed to the amendment will be recognized for 5 minutes.

Mr. HUGHES. Mr. Chairman, I am opposed to the amendment offered by the gentleman from Colorado [Mr. KRAMER].

The CHAIRMAN. At the appropriate time, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 5 minutes in opposition to the amendment.

The Chair now recognizes the gentleman from Colorado [Mr. KRAMER].

Mr. KRAMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to compliment the Members of the House and the bipartisan leadership that put this package together. I think it is an excellent piece of legislative work, but I do think it is failing in one regard.

Neither current law nor the judiciary provisions of this bill mandate mandatory sentencing for all of those who sell a highly addictive or deadly drug to children or teenagers, even for a second offense.

What this amendment does, simply put, is require a sentence of life imprisonment without parole for all adults who are convicted a second time of selling highly addictive or deadly drugs to young people.

As you know, drug abuse has become a monstrous problem, particularly among our young. In a recent nationwide study, nearly two-thirds of high school seniors were reported to have used illicit drugs sometime in their lives.

Other statistics indicated by the time these same seniors reached their mid-twenties, 75 to 80 percent will have tried such a drug.

What is even more alarming is the fact that nearly half of these students had first used an illicit drug prior to their entering 10th grade.

Moreover, another study done in Michigan clearly shows that this Nation's high school students and other young adults are more involved with drugs than in any other industrialized nation in the world

□ 1410

More and more it is becoming evident that not only do dangerous drugs such as cocaine and heroin and crack lead to abuse and addiction, they can kill.

In 1985, 3,000 teenagers died from factors related to drug abuse. So in short, drug abuse cannot only ruin a young person's life; it can take it.

This has got to deeply sadden all of us. Young people are the hope of our Nation, and if we lose our children to drug abuse, we lose two wonderful resources: people and hope.

So I believe that this amendment is necessary to stem the flow of those

who would earn profit and prosper off of the abuse of our young people.

I do not believe that a sentence of life imprisonment without parole for those who profit in such a profane way, for a second conviction, is at all unjustified.

I would ask that we support this amendment. I believe that a prior conviction is more than sufficient warning not to commit the same crime again. It is simply too depressing to think that our Nation's schoolyards are being used as drug operations centers by certain pushers.

Schools and schoolyards are centers for growth, for learning, for understanding; not to learn about drugs. Let us make sure that those schoolyards and schools and young people are as they were originally intended. Schoolyards not tainted by scenes of drug distribution and young people whose minds are not warped by having them put behind the eight ball before they have their chance in life.

The battle against drug abuse will be a long and costly one. It is a battle we must not lose if our Nation is to remain strong. It is clear that stiffer sentencing is in need, and particularly for those dealers who prey on our youth.

This legislation is one step in the struggle. The combining it with rehabilitation and education and treatment, cooperation with drug-producing countries, strengthening our control at our borders, we can produce a united front that will put an end to this deadly threat and protect our children.

Mr. Chairman, I yield to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I want to compliment the gentleman on this very tough amendment to our sentencing enhancement provisions of the bill. It is a mandatory life sentence, but it is in a place in this legislation that it needs to be if we are going to put real tough deterrence in here; and dealing with kids is a place where we have got to say no and we have got to really mean it.

I compliment the gentleman for offering the amendment, and I support the amendment.

Mr. KRAMER. Mr. Chairman, I thank the gentleman for this support and I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I ask your attention for just 1 minute. I realize that the steamroller is moving, and we are doing some things that are very, very, very questionable.

The Kramer amendment would impose a mandatory life prison term for a second offender; a person over 18 years of age that distributes any quantity of any schedule 1 or 2 drug, any quantity, to a person under 21 years of

age within 1,000 feet of a school or college.

Two 19-year-olds, one selling five amphetamines, triggers a violation of this statute. Now it is a serious offense, and we provided for a serious, in fact, fine and penalty in the bill. We have enhanced it significantly.

For a second offender, in the legislation we have before you, the term that can be imposed by a court is from 30 to 90 years; 30 to 90 years, depending upon the circumstances.

Mr. KRAMER would have the court impose a mandatory life imprisonment on a 19-year-old—mandatory; no parole.

Now I served for 10 years as a prosecutor, in the pits, trying criminal cases; and believe me when I tell you that the fastest way to get an exoneration before a jury is to have penalty that is too severe. Anybody that has tried cases in the courts, criminal cases, knows that the toughest case you can try is one where the penalty is one that is abhorrent to the jurors. They will not convict.

If you do not want them to convict, then take this path. I know everybody wants to be tough on criminals, but you hamstring the prosecution and you give the defense the best argument they could possibly have; and that is, you cannot impose a life term on this 19-year-old for selling five tablets. Come on, let us get some reason back into the system.

It is a bad amendment, Mr. Chairman. It does not mean you are weak on crime because you oppose it; it means you are trying to use some common sense.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I will be happy to yield to my colleague, briefly.

Mr. KRAMER. Mr. Chairman, the gentleman has apparently not read the amendment as I intended it to read. It only applies to adults; those who are 21 years of age or older and who sell to those who are under 18.

Mr. HUGHES. Reclaiming my time, Mr. Chairman, the amendment says, for a second offender, by a person over 18, distributing any quantity of a schedule 1 or schedule 2 drug, except marijuana, to a person under 21 or to any person within 1,000 feet of a school or college.

That is what it says, and that is the essence of the gentleman's amendment, and I urge my colleagues to defeat the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. KRAMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me respond briefly. The amendment reads: "if at least 21 years of age." So there is no question—I do not know what the gentleman is reading from, but this amend-

ment clearly provides that it only applies to adults over 21, not those under 21.

Second, it only applies in the case of class 1 or class 2 drugs, those that are deemed to be extraordinarily serious by previous legislation.

Third, the Judiciary amendment, as it reads, makes no change whatsoever in the law as it applies to transactions in schoolyards.

Fourth, I would say I was a prosecutor, both in the Army and in the civilian courts of El Paso County, CO; and I can tell you the juries do not know what sentences are before a conviction takes place.

I would also suggest, Mr. Chairman, that we cannot possibly, possibly suggest that we can deter crime by lessening sentences. I think that is a step in the wrong direction, and if we want a lesson from how we have improved on cracking down on DUI with stiffer sentences, I think that a fair and just sentence is life imprisonment for those who are convicted twice of the same offense dealing with our young people.

Mr. HUGHES. Mr. Chairman, I wanted to reserve the balance of my time.

Mr. KRAMER. Mr. Chairman, I object. The gentleman yielded back his time.

The CHAIRMAN. The gentleman is correct; the gentleman yielded back his time.

The question is on the amendment offered by the gentleman from Colorado [Mr. KRAMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KRAMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 355, noes 54, not voting 22, as follows:

[Roll No. 370]

AYES—355

Akaka	Boggs	Combest
Alexander	Boland	Conte
Anderson	Bonior (MI)	Cooper
Andrews	Borski	Coughlin
Annunzio	Boucher	Courter
Anthony	Boulter	Coyne
Applegate	Brooks	Craig
Archer	Broomfield	Crane
Armey	Brown (CO)	Daniel
Aspin	Bruce	Dannemeyer
Atkins	Bryant	Darden
AuCoin	Burton (IN)	Daschle
Badham	Bustamante	Daub
Barnard	Byron	Davis
Bartlett	Callahan	de la Garza
Barton	Carney	DeLay
Bateman	Carper	Derrick
Bates	Carr	DeWine
Bedell	Chapman	Dickinson
Bennett	Chappell	Dicks
Bentley	Cheney	Dingell
Bereuter	Clinger	DioGuardi
Berman	Coats	Dixon
Bevill	Cobey	Donnelly
Biaggi	Coble	Dorgan (ND)
Bilirakis	Coelho	Dornan (CA)
Bliley	Coleman (MO)	Dowdy
Boehlert	Coleman (TX)	Downey

Dreier	Leach (IA)	Roberts
Duncan	Leath (TX)	Robinson
Durbin	Lehman (CA)	Roe
Dwyer	Lent	Roemer
Dyson	Levin (MI)	Rogers
Eckart (OH)	Levine (CA)	Rose
Eckert (NY)	Lewis (CA)	Rostenkowski
Edgar	Lewis (FL)	Roth
Edwards (OK)	Lightfoot	Roukema
Emerson	Lipinski	Rowland (CT)
English	Livingston	Rowland (GA)
Erdreich	Lloyd	Russo
Evans (IA)	Loeffler	Saxton
Fascell	Lott	Schaefer
Fawell	Lowery (CA)	Schroeder
Fazio	Lujan	Schuetz
Feighan	Lukens	Schulze
Fiedler	Lundine	Schumer
Fields	Lungren	Seiberling
Fish	Mack	Sensenbrenner
Flippo	MacKay	Sharp
Florio	Madigan	Shaw
Foglietta	Manton	Shelby
Ford (MI)	Marlenee	Shumway
Ford (TN)	Martin (IL)	Shuster
Fowler	Martin (NY)	Siljander
Frank	Martinez	Sisk
Franklin	Matsui	Skeen
Frenzel	Mavroules	Skelton
Fuqua	Mazzoli	Slattery
Gallo	McCain	Slaughter
Gejdenson	McCandless	Smith (FL)
Gekas	McCloskey	Smith (IA)
Gephardt	McCollum	Smith (NE)
Gibbons	McCurdy	Smith (NJ)
Gilman	McDade	Smith, Denny
Gingrich	McEwen	(OR)
Glickman	McGrath	Smith, Robert
Goodling	McKernan	(NH)
Gordon	McKinney	Smith, Robert
Gradison	McMillan	(OR)
Gray (IL)	Meyers	Snowe
Gray (PA)	Mica	Snyder
Green	Michel	Solomon
Gregg	Mikulski	Spratt
Guarini	Miller (CA)	St Germain
Gunderson	Miller (OH)	Staggers
Hall (OH)	Miller (WA)	Stallings
Hall, Ralph	Mineta	Stangeland
Hamilton	Moakley	Stenholm
Hammerschmidt	Molinar	Strang
Hansen	Mollohan	Stump
Hartnett	Monson	Sundquist
Hatcher	Montgomery	Sweeney
Hefner	Moore	Swindall
Hendon	Moorhead	Tallon
Henry	Morrison (WA)	Tauke
Hertel	Mrazek	Tauzin
Hiler	Murphy	Taylor
Hillis	Myers	Thomas (CA)
Holt	Natcher	Thomas (GA)
Hopkins	Neal	Torres
Horton	Nelson	Torricelli
Howard	Nichols	Trafficant
Hoyer	Nielson	Traxler
Hubbard	Nowak	Valentine
Hunter	Oakar	Vander Jagt
Hutto	Olin	Volkmer
Hyde	Ortiz	Vucanovich
Ireland	Owens	Waldon
Jacobs	Oxley	Walgren
Jeffords	Packard	Walker
Jenkins	Panetta	Weber
Johnson	Parris	Wheat
Jones (NC)	Pashayan	Whitehurst
Jones (OK)	Penny	Whitley
Jones (TN)	Pepper	Whittaker
Kanjorski	Perkins	Wilson
Kaptur	Petri	Wirth
Kasich	Pickle	Wise
Kemp	Porter	Wolf
Kennelly	Price	Wolpe
Kildee	Pursell	Wortley
Kindness	Quillen	Wright
Kleczka	Rahall	Wyden
Kolbe	Ray	Wylie
Kolter	Regula	Yatron
Kostmayer	Reid	Young (FL)
Kramer	Richardson	Young (MO)
Lagomarsino	Ridge	Zschau
Lantos	Rinaldo	
Latta	Ritter	

NOES—54

Barnes	Beilenson	Bonker
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Bosco	Hayes	Roybal
Boxer	Hughes	Sabo
Chandler	Kastenmeier	Savage
Clay	LaFalce	Scheuer
Collins	Lehman (FL)	Solarz
Conyers	Leland	Stark
Crockett	Long	Stokes
Dellums	Lowry (WA)	Studds
Dymally	McHugh	Swift
Early	Moody	Towns
Edwards (CA)	Morrison (CT)	Udall
Evans (IL)	Murtha	Vento
Foley	Oberstar	Visclosky
Frost	Obey	Waxman
Garcia	Pease	Weiss
Gonzalez	Rangel	Williams
Hawkins	Rodino	Yates

NOT VOTING—22

Ackerman	Grotberg	Stratton
Boner (TN)	Huckaby	Synar
Breaux	Markey	Watkins
Brown (CA)	Mitchell	Weaver
Burton (CA)	Rudd	Whitten
Campbell	Schneider	Young (AK)
Chapple	Sikorski	
Gaydos	Spence	

□ 1435

Mr. RANGEL and Mr. BOSCO changed their votes from "aye" to "no."

Messrs. JEFFORDS, LUKEN, BERMAN, and SCHUMER changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ENGLISH

Mr. ENGLISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ENGLISH: Page 208, line 11, strike out "\$60,000,000" and insert in lieu thereof "\$114,000,000".

Page 208, after the period in line 12 insert the following: "Of the amount appropriated under this subsection, \$54,000,000 shall be used to support increased narcotics interdiction operations in the Bahamas."

The CHAIRMAN pro tempore (Mr. FOWLER). Under the rule, the gentleman from Oklahoma [Mr. ENGLISH] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Chairman, officials of the General Accounting Office 2 days ago testified before my subcommittee about drug trafficking. They told us that perhaps 80 percent of the cocaine entering the United States this year will come through the Bahamas into south Florida.

The Government of the Bahamas, in sharp contrast to the Government of Mexico, has repeatedly expressed an interest in cooperating with us to fight this avalanche of drugs. They have allowed us to operate a powerful anti-smuggling radar on their soil. They have invited the U.S. Air Force to operate two pursuit helicopters in the

Bahamas to carry Bahamian police and American DEA agents to smuggler landing sites.

The Bahamians have even extended their consent to allow our customs agents to land in the Bahamas when in hot pursuit of drug smuggler aircraft. This is the same overflight and hot pursuit authority that the President recently begged Mexico to grant, and which they refused. Mexico is the second leading drug transshipment nation, trailing far behind the Bahamas as a source of illegal drugs for the United States.

A source of continuing wonderment to me is that our Acting Ambassador to the Bahamas has refused to accept the Bahamian's generous hot pursuit offer. I can't conceive of the rationale for that, but I intend to find out why we need it in Mexico but can afford to turn it down in the Bahamas.

Mr. Chairman, we have a number of new detection assets that will be coming on the line in the very near future down in the Southeastern part of the United States and in the Bahamas itself. And with over 80 percent of the cocaine entering this country coming up through the Windward Passage in the Bahamas into south Florida and further north along the eastern seaboard, it does not make a whole lot of sense to have detection coverage down there unless you are willing to provide the interceptors and the helicopters to allow our law enforcement officials in cooperation with the Bahamians to make arrests.

There are hundreds of islands in the Bahamian chain. We have two helicopters presently that carry law enforcement officials from the United States and the Bahamas in making arrests in the northern part of that chain.

What this amendment does is make available additional personnel as well as six high-endurance aircraft that would have tracking capability, along with six new helicopters that will allow us to scatter these forces throughout the Bahamian chain and take away this launching point, and it is a launching point, into the Southern part of the United States and into the west coast.

Mr. Chairman, this is a huge whole that is left unless we adopt this amendment. Mr. Chairman, I urge the amendment be adopted.

Last April, the commander of the Royal Bahamas Defence Force, Comdr. Leon Smith, testified before my subcommittee. He again expressed the commitment of the Bahamas to expanded cooperation in drug interdiction, but stressed that the aircraft, communications equipment, and funding for the increased operations were beyond the ability of the Bahamian Government to provide.

This is the kind of cooperation that can lead to real success in the international war on drugs. We would be fool-

ish to let this opportunity slip away. We can show the world that everyone benefits when nations cooperate to crush drug trafficking, and that national sovereignty can be honored while doing it.

Because we have been somewhat successful in diverting drug smugglers from actually landing in Florida, pressures on the Bahamas have increased tremendously in the past 3 years. Great increases in air drops and landings of smuggler aircraft there have been documented.

The current cooperative interdiction effort is called Operation BAT. It has proven the concept that powerful radar, combined with a quick reaction force, can have tremendous impact on drug traffickers, often arriving before the smugglers can even unload their aircraft.

This current modest program, for all its successes, can operate only in the northernmost islands of the long Bahamian chain because of the limited range of the helicopters and the small numbers of people in the program. These activities are frequently out of the effective range of the BAT team.

We have forced many traffickers out of its limited area of effectiveness, but we have not shut them down. As GAO told us just 2 days ago, they still operating at a tremendous level of activity.

Forty-nine million dollars of the \$54 million which this amendment authorizes is for the procurement of six radar equipped pursuit aircraft and six high speed, long-range bust team helicopters. This is a one-time cost. The equipment will remain the property of the U.S. Government, and will be used for years to come. The remaining \$5 million is for personnel costs.

Mr. Chairman, drug interdiction works best when it is done closest to the country of origin. By taking advantage of the willingness of the Bahamians to join us in this fight, we are taking the interdiction effort away from our immediate border and one step closer to South America. Clearly, it is more cost effective to seize cocaine by the ton overseas than to search for ounces on our streets and playgrounds.

Let me emphasize that this is not "foreign aid." We are not making a grant to a foreign nation. We are simply saying: "We desperately need your cooperation. You are willing to help us, and we are willing to pay for the help."

I urge the support of every Member for this amendment.

Mr. Chairman, I reserve the balance of my time.

□ 1445

Mr. HUGHES. Mr. Chairman, first of all, I want to congratulate my colleague from Oklahoma who has done yeoman's work in this whole area of

drug interdiction and intelligence gathering. We have a very serious problem in the Bahamas, and the gentleman could not be more accurate in describing the problems that we are wrestling with in that area of the country. It is a very critical area, particularly with regard to the movement of cocaine and marijuana out of South America.

I just have three concerns. I just wish we had had some time, I say to the gentleman, to have worked on this amendment together because we could perhaps have addressed some of the concerns.

One of the concerns is, as the gentleman well knows, we need operational flexibility. Even though we have major problems in the Bahamas right now which will require this kind of a commitment perhaps, 6 months from now we might have other operational problems and would have to move operations. We need that flexibility. That is one problem we have with the amendment.

Second, in light of recruitment, training, and procurement capabilities, we just may not be able in one fiscal year to actually implement this program. We are talking in terms of \$54 million to support increased cooperation with narcotics interdiction operations in the Bahamas. We probably need more time in trying to implement an operation of this nature. We are talking about substantial increases in resources.

Finally, with regard to the equipment, there needs to be some discussion with DEA insofar as the specifications: The kind of equipment, radar, communication equipment that they really need; the kind of equipment that would be appropriate.

My question to the gentleman would be: Would the gentleman be amenable to providing that kind of flexibility in the context of the gentleman's amendment?

I yield to the gentleman from Oklahoma for his response.

Mr. ENGLISH. I thank the gentleman.

Mr. Chairman, I think the gentleman makes some good points and certainly I think we need to provide our law enforcement flexibility whenever we can. The one insistence that I think that is critical is so long as the Bahamas is used as a main thoroughfare, either going further north up along the coast or into south Florida, I think we have got to insist that DEA concentrate in that area.

Let me say as far as special operations which take place elsewhere, I think that it makes good sense to allow those assets the opportunity to participate.

Mr. HUGHES. I can assure the gentleman, as the gentleman knows, that in fact this area of the Bahamas is a critical area, it is an area of first prior-

ity. It is an area that is essential if we are going to try to deter much of the cocaine in particular, but also marijuana coming in from South America that we do a better job. It is a priority, the only thing is we need some flexibility; operational flexibility.

Mr. ENGLISH. If the gentleman will yield further, I would certainly agree that if we see a shifting away. With 80 percent of the cocaine coming in, obviously that has to be a prime consideration at this time. If we see a shifting and a movement I have always favored in providing our law enforcement agencies, DEA and Customs, the flexibility they need.

Mr. HUGHES. Then if we in conference can in fact provide that flexibility the gentleman would support that?

Mr. ENGLISH. As long as there is this insistence that so long as this heavy traffic is within the Bahamas that we do maintain these assets there recognizing that there may be periodically times in which they should be used in special operations elsewhere.

Mr. HUGHES. Mr. Chairman, I think we have an accord, and I am prepared to agree to the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. ENGLISH. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to compliment the gentleman from Oklahoma for not only this amendment but his input into the total bill. I think he can take credit for the authorship for a very significant portion of the bill.

I would like to talk about the problems in the Bahamas. I was down there about a month ago, and I had not been down there for a number of years, and I had seen how the situation had deteriorated down there; how many people were involved in the drug business. The little, black speedboats that are in the harbors down there ready to make their run of just some 20 miles onto the south Florida coast.

It makes sense to go after them in the Bahamas. I think this is a wonderful amendment. We have got a tremendous problem with corruption and just geography as to the proximity of the Bahamas and how they are being used and overutilized by the drug smugglers bringing their traffic into Florida.

I certainly intend to support the amendment and I compliment the gentleman for his authorship.

Mr. ENGLISH. I thank the gentleman.

Let me say that all these assets will be retained in ownership by the U.S. Government and law enforcement officials.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Chairman, I just wanted to commend the gentleman from Oklahoma [Mr. ENGLISH] for this very good and very important amendment. I want to commend the gentleman from New Jersey, the chairman of the Crime Subcommittee, on which I am honored to serve, for clarifying that there is some need to make sure that the assets are used correctly and used in balance and proportion to the way they can be used by the agency.

I just wanted to say, like Mr. SHAW of Florida, the Bahamas is a special problem to us. It is a major problem in terms of narcotics trafficking. The trafficking is a problem that we need to solve. This amendment will go a long way in helping to solve that. We are getting better cooperation now than we ever did before, but we have got a long way to go and too much drugs are being run in from the Bahamas to Florida.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. I thank the gentleman.

Mr. Chairman, I just wanted to point out that this amendment does not remove assets or equipment or materiel from anywhere else in the United States in this overall effort. It is in addition to the Bahamas problem.

Mr. HUGHES. The gentleman is correct. It is a good amendment with the flexibility that I am sure that we can create in conference. I support the amendment.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from California.

Mr. STARK. I thank the gentleman.

Mr. Chairman, I know the gentleman is familiar with Alameda County's Targeted Urban Crime Narcotics Task Force. I wonder under section 663 if the gentleman recognizes that this is the type of program and type of area that the committee intended to encourage in section 663.

Mr. HUGHES. The gentleman is correct. It would be eligible if it is drug related.

Mr. STARK. If the gentleman is also aware that on the State's bid for the intended level of expenditures and local governments would be a prime determinant in the allocation of these funds.

In other words, would the local governments which spend the most receive the most help from this?

Mr. HUGHES. The gentleman is correct.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Oklahoma [Mr. ENGLISH].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RANGEL: Page 211, line 3, strike out "50" and insert in lieu thereof "90".

Page 215, beginning in line 12, strike out "or construction projects" and insert in lieu thereof "or for construction projects other than penal and correctional institutions".

Page 215, line 20, strike out "65 per centum" and insert in lieu thereof "the amount remaining after amounts are reserved under section 1310".

Page 218, line 20, strike out "(a) Of" and insert in lieu thereof "(a)(1) Subject to paragraph (2), of".

Page 219, after line 2, insert the following: "(2) The amount reserved under paragraph (1)—

"(A) for fiscal year 1987 may not exceed \$20,000,000; and

"(B) for fiscal year 1988 may not exceed \$40,000,000.

Page 219, line 3, strike out "(b)(1) Of" and insert in lieu thereof "(b)(1)(A) Subject to subparagraph (B), of".

Page 219, after line 9, insert the following: "(B) The amount reserved under subparagraph (A)—

"(i) for fiscal year 1987 may not exceed \$15,000,000; and

"(ii) for fiscal year 1988 may not exceed \$30,000,000.

Page 223, strike out line 2 and insert in lieu thereof the following: "\$660,000,000 for fiscal year 1987 and \$695,000,000 for".

Mr. RANGEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. Under the rule, the gentleman from New York [Mr. RANGEL] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

Mr. HUGHES. Mr. Chairman, I stand in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 10 minutes to speak in opposition to the amendment.

The Chair recognizes the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, we are now really getting to the real substantive area of this omnibus package.

□ 1455

The real frontline troops in this war have to be our local law enforcement officials, and certainly in the bill that was passed out of committee I do not think we give them the equipment to work with.

All that my amendment would do is to take the amendment which the resolution or the bill, H.R. 526, the one that originally went before the Judici-

ary Committee, and increase the moneys available to the amount that was in the original bill. That is, in 1987 \$660 million will be added to what was reported out, and in 1988 \$695 million will be added, and we will go along with the discretionary grants that were in the existing legislation. The only other area where we make changes is to allow the local authorities to decide where they will use the money as it relates to building prisons.

Let me tell the Members that one of the major problems that we face today is not just the lack of local policemen and district attorneys and judges, but we are facing a lack of confidence in the local and State law enforcement officials. Why is this? It is because when people see drug trafficking taking place all around them and see the sales taking place outside the courtrooms, outside the classrooms, and outside the boardrooms, and see the police looking at these sales and not making the necessary arrests and see people who are arrested returning to the streets quicker than the policemen can leave the court and come back to the streets, it means that we on the Federal level are calling it a local problem. Yet we know that none of the drugs that we are talking about, when we talk about cocaine, when we talk about crack, when we talk about opium, and when we talk about heroin, none of these drugs are being processed or grown by local or State jurisdictions.

It seems to me that if we are serious, the Federal Government is going to have to extend a hand by providing the funds that are necessary to reinforce and to back up our local policemen who are doing the best they can with limited resources. But certainly if we take a look at what they have to look forward to in the Federal Establishment, we have not increased the Drug Enforcement Administration in agents since 1974. Why, we have in the city of New York alone some 25,000 policemen who are on the front line, and when we take a look at what they have in Drug Enforcement, they have closer to 2,500 agents. We are making some 50,000 arrests in the city of New York and spending some \$318 million a year in trying to have a real war against drugs. You cannot tell me that when you go to Boston, Philadelphia, Newark, Los Angeles, and all the other areas that the committee has gone into, we are going to say that we have a war against drugs and not provide the tools to our mayors, to our district attorneys, and to our judges to really do the job that is necessary. I ask you just to take a look at some of the documents that the Conference of Mayors has produced, the documents that the National District Attorneys has produced, and the documents that the governors of our great States have produced, and you see that they want

to get involved in this struggle. But we cannot convince them that they have to assume the full responsibility of protecting our borders and protecting our youth and protecting our communities when we refuse to unplug what is happening in many of the systems.

We have a system in which sometimes the police do not arrest because the district attorneys have a backlog. The city of New York has 1,500. We have a situation where the judges cannot sentence because there is no place to send them. I really suspect that if we take a look at the overall battle, we will find that the real troops we are concerned with will have to be the troops back home who will do the job if we will give them the tools to work with.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I will yield to the ranking member of the Select Committee on Narcotics, but first let me say that I do not recall when we have gone to any city in the United States, whether it was on the border or whether it was on the eastern coastline, that we did not listen to the police chiefs, to mayors, and to judges.

Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. GILMAN] in order that he may share his experience with this body.

Mr. GILMAN. Mr. Chairman, I rise in strong support of the amendment proposed by the distinguished chairman of the Select Committee, Mr. RANGEL, and myself to increase the amount authorized for grants to State and local law enforcement to \$660 million for fiscal year 1987, and \$695 million for fiscal year 1988. In addition, the amendment reduces the State matching requirement from 50 to 10 percent, and provides for non-Federal prison construction.

The bill under consideration here today was necessitated by the fact that drug trafficking and drug abuse have reached epidemic proportions in this Nation. Despite many efforts to increase our interdiction and enforcement capabilities, local enforcement personnel are being overwhelmed by drug trafficking abuse and related criminal activity. Caseloads for these crimes are so overloaded that justice is not being achieved for offenders; would many cases not being handled because of a lack of time and resources.

The House Judiciary Committee, however, has authorized only \$100 million for fiscal 1987 and \$200 million for fiscal 1988 for such grants. Of these amounts, 65 percent would be set aside for formula grants to States and the remaining 35 percent would be set aside for DEA to make discretionary grants to States, not only to continue support for successful enforcement efforts, but also to assist in fur-

thering efforts in areas experiencing severe drug problems.

The amendment Chairman RANGEL and I are proposing would have to correct this situation, while preserving the discretionary amounts proposed in the bill. First, the formula grant authorization level would be restored to \$625 million as proposed in the original version of H.R. 526, the State and Local Narcotics Control Assistance Act as proposed by Chairman RANGEL and myself. In drafting that bill we considered this amount to be a minimum sum that could have a significant impact on the severe problems confronting our Nation. Second, the matching funds requirement for States would be reduced from the Judiciary Committee proposed 50 percent to the 10-percent figure in H.R. 526. Third, the \$35 million discretionary funds included in the omnibus drug bill would be maintained. In all, \$600 million would be authorized for formula and discretionary grants for fiscal year 1987. For fiscal year 1988, the omnibus drug bill would authorize \$200 million, of which \$70 million would be discretionary grants. We believe this amount is insufficient to combat narcotics trafficking. Accordingly, we have proposed \$695 million for fiscal year 1988; which would retain \$70 million in discretionary grants of the omnibus drug bill and include \$625 from our original bill.

Mr. Chairman, hearings held around the country have clearly disclosed that State and local law enforcement agencies are under tremendous pressure and in desperate need of a substantial amount of assistance. In addition, the amounts proposed in this amendment have the strong support of Governors, mayors, and State and local enforcement officials around the country. I believe that our amendment far more adequately recognizes and deals with that need. Accordingly, I urge my colleagues to give this measure their strong support.

Let us bear in mind that we cannot fight a \$100 billion criminal activity of narcotics trafficking with mere words. We cannot wage a narcotics war with peashooters.

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may consume, and I yield to the gentleman from New York [Mr. McGRATH].

Mr. McGRATH. Mr. Chairman, I thank the gentleman for yielding, and I rise in support of the amendment and also in support of the bill.

Mr. Chairman, I wish to congratulate my colleagues, both gentlemen from New York, for bringing us to the point where we are going to have a bill that is going to have some teeth in it.

Mr. RANGEL. Mr. Chairman, I yield 2 minutes to the chairman of the Committee on the Judiciary, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Chairman, this amendment is probably the amendment that makes the most sense in this effort to fight the war against drugs.

For a long period of time local municipalities and local law enforcement agencies have been pounding at our door saying, "Give us some help. We are in need. They continue to plead with us for Federal financial resources to be able to combat this terrible plague that visits our country and our cities."

This has been established by the Select Committee and by our own committee in hearings in my own district and around the country. Regrettably, our Committee on the Judiciary voted down this amendment by a one vote margin. Unless we are genuinely interested in applying resources and helping those on the frontline fighting this problem on a day-to-day basis, we are not going to win the war on drugs. The only way we are going to be able to do it—and I do not want to reiterate what has been so eloquently stated by the chairman of the Select Committee, Mr. RANGEL, and the other gentleman from New York who is 'he ranking member of the Select Committee on Narcotics, Mr. GILMAN—is to support this amendment.

I received a letter yesterday from the New Jersey League of Municipalities which stated that those "men and women who are closest to the problem and who risk their lives to solve it" need our support.

Our State and local criminal justice systems now bear the brunt of this problem and they need Federal leadership, support, and funding if we expect them to effectively address it. This amendment provides that necessary help.

This amendment will, in my judgment, enable us to put a dent in this fight against drug abuse and I urge my colleagues' support.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from New York [Mr. RANGEL] has 1 minute remaining.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I yield myself 3 minutes.

□ 1505

Mr. Chairman, it is with a great deal of reluctance that I rise in opposition to the amendment of the gentleman from New York. As chairman of the Select Committee on Narcotics, on which I serve, he has been at the forefront of our antidrug efforts. I chair the Subcommittee on Crime which has legislative authority for narcotics law enforcement. Our two committees have formed a team in developing the tools for effective drug law enforcement efforts.

The gentleman from New York [Mr. RANGEL] and the gentleman from New York [Mr. GILMAN] have been at the head of the effort of the Select Committee. As evidenced by the work of my former colleague, Hal Sawyer of Michigan, the ranking minority Member of the 98th Congress and myself in our work on the Justice Assistance Act in the last Congress and the drug enforcement enhancement title in the bill which we are discussing today, I have been and remain a consistent advocate for Federal aid for appropriate State and local law enforcement efforts, particularly drug enforcement. I can't count the number of times that I have taken this podium to state that we in the Federal Government are bad partners to our colleagues at the State and local levels and as long as I am in Congress I will continue to encourage the Federal Government to improve its performance as an effective ally to the State.

However, in this instance I am forced to disagree with my colleague's approach in this amendment. I do so because the amendment proposes too much money, too quickly for intelligent spending, with too little contribution by the recipient units of Government, with too much incentive for the recipient units of Government to convert it from a drug fighting program to a prison construction subsidy program. Let me briefly explain how the amendment would bring about these results.

First, too much money. The amendment caps the discretionary portion of the bill as reported at the reported levels: \$35 million in fiscal year 1987 and \$70 million in fiscal year 1988. However, it increases the formula grants to the States from \$65 million in fiscal year 1987 and \$130 million in fiscal year 1988 to \$625 million each year. This tenfold increase in fiscal year 1987 and half that for 1988 cannot be justified in the present Federal budget crisis, nor can it be reconciled with the careful approach to Federal aid to State and local criminal justice reflected in the ongoing Justice Assistance Act of 1984.

Second, too soon. \$625 million is authorized for formula grants in fiscal year 1987, which will begin before this authorization becomes law, and long before any supplemental appropriation based on the authorization. State and local governments have not planned or budgeted for fiscal year 1987 taking these amounts into account. We would be recreating the chaotic early years of LEAA, during which large amounts (though less than this amount) of Federal money was thrown at the States with little or no guidance or limitation.

Third, too small a match. The amendment would reduce the State and local matching fund requirement

from 50 to 10 percent. This would again repeat the errors of LEAA, where we found that, as a practical matter, a 10-percent match is too low to insure a real commitment to the purposes for which the money is being spent. It is, in reality, free Federal money.

Fourth, too much incentive to spend all the money on prison construction. No one in this body is more committed to helping law enforcement combat drug trafficking than the gentleman from New York. The reality is, however, that the changes proposed by this amendment, which include express authority to use the money for prison construction, will convert it into a prison construction program, with little or none of the money going directly for drug law enforcement.

State and local government will see this large amount of Federal money as a one shot windfall, not to be continued or repeated, just as one does not expect to win the Irish Sweepstakes or the Maryland Lottery two times in a row. They will not start new programs, or hire permanent personnel whom they will have to fire or find new money for in a year or two. No, they will almost certainly use this money not for drug law enforcement, but for prison and jail construction. There is a real crisis in corrections, in the States as well as in the Federal system, but the question before the House is whether we find that our present priorities justify voting a \$1.2 billion, 90 percent Federal subsidy for State and local prison and jail construction. That is the practical effect of this amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, I thank the gentleman for yielding.

With all due respect, Mr. Chairman, this is truly the kitchen sink amendment. Some people have said that Congress is going to get so hot on the antidrug warpath that we are going to throw everything in including the kitchen sink. Well, this is it.

A half a billion dollars, we are just going to up it like that.

You might call it the bust-the-budget-amendment or the sink-the-Gramm-Rudman amendment. All of those things apply here.

The tragedy of it is that we have overall a good bill, but I just ask you, what in God's name are we in the House of Representatives doing telling the American people that we can accept \$200 billion plus deficits every single year, when the combined situation of local and State governments is that they have a surplus of \$58 billion. Now, \$58 billion, we are going to take money we do not have, take over half a billion of that and give it to those who are running surpluses. I do not think you have to buy off local govern-

ments. I do not think you have to blackmail them into doing the job they ought to be doing.

We ought to set the example at the Federal level. We have not funded the DEA consistent with the request made by the administration. We have not funded the administration's Justice Department to grant us additional prosecutors. We have not funded the administration's request for marshals.

Why are those things important? If we do not take the tough criminals off the streets who are convicted of Federal crimes, they will still be on the streets and that pressure is on the State and local governments.

The best thing we can do right now to take the pressure off local and State governments is to do the job at the Federal level.

Prisons right now on the Federal level are running 42 percent above capacity and we are going to take half a million dollars that we ought to be spending for prison construction at the Federal level and send it to the States and localities when they have a surplus.

Certainly if you ask any mayor, they would like money. You might call this the "make your local mayor feel good amendment." They love us to send money, but let us be realistic. Let us not just posture. We are going to go to the Senate. We are going to have to compromise and when we compromise, we are going to have to compromise with the monies that are in the bill. That means you are not going to get your \$600 million for the States. You are going to get something less, but it is going to be taken out of the hides of the FBI, DEA, prison construction and every other thing on the Federal level.

We ought to request that our local governments spend more money on the antidrug program.

Let me just give you some statistics. In New York, 4.3 percent of their law enforcement budget is used against drugs.

In Chicago nine-tenths of 1 percent.

Philadelphia, 1.3 percent.

D.C., 5.9 percent.

Dallas, 1.3 percent.

San Francisco, 2.4 percent.

St. Petersburg, FL, 2.7 percent of their total budget is being used for drugs.

It is not that they do not have the money. It is that they are not establishing the priorities.

So we are going to say that we are going to bail them out with money we do not have. It is an empty promise and what it really means is that we are going to take it away from the DEA. We are going to take it away from the FBI. We are going to take it away from Federal prison construction.

You can vote for this amendment to make yourselves feel good, but I will tell you that ultimately it is going to

mean you are going to take more money away.

Mr. Chairman, I ask my colleagues to vote down this amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me this minute.

It is with a great deal of regret and I might even say hesitation with regard to how fast we are going through these amendments today that I stand up in opposition to this amendment. I do so with all due respect to the gentleman from New York, the sponsor of the amendment, for whom I have a tremendous regard; however, there is one fatal flaw in the amendment. Having been a mayor for three terms of the city of Fort Lauderdale, I can tell you that it is a fatal flaw.

When you send money down to State and local governments and require only a 10-percent matching fund, this guarantees that the money will not be wisely spent. It will go to new types of projects, experimental types of projects. It will be spending Federal money by the mayors of this country on projects which they are not willing to tax their own citizens for.

The States of this country, including my own, and the cities of this country, including my own, are not spending enough to fight this war on drugs. For us to take our money with the large deficit we have and shovel it down to local governments is in error.

Mr. HUGHES. Mr. Chairman, I yield one-half minute to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Chairman, I appreciate the chairman of our Crime Subcommittee yielding to me.

I would like to rise in very enthusiastic support of the amendment offered by the gentleman from New York. This is the incorporation of legislation which the gentleman from New York [Mr. RANGEL] and others have been working on for more than a year that I think makes eminent sense.

We all are saying that we are in a war on drugs. We all say that we recognize that it is the local law enforcement officers of this Nation who are on the front lines of that war. Then let us give them the kind of resources that they need really to meet the enemy in this war.

I think this is a reasonable level of funding and it is clearly a necessary level of funding.

Mr. Chairman, I would urge adoption of the amendment.

Mr. HUGHES. Mr. Chairman, I yield such time as he may consume to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I appreciate the gentleman yielding.

I simply want to compliment the gentleman for the good taste that he laid out here, and also the gentleman from California and the gentleman from Florida.

I think we have to be reasonable about what we are doing here. I thought the case that was made about the strengths of the States and local communities financialwise versus what we are faced with here at the Federal level is a very important point to make at this juncture.

I want this measure signed into law. I do not want there to be an impediment on the cost factor when it comes to the folks downtown.

I applaud the gentleman for opposing the amendment. It takes a little guts and intestinal fortitude to do that from time to time around here, particularly on such a sensitive subject; but I am going to certainly vote against the amendment.

I appreciate the gentleman yielding.

Mr. HUGHES. Mr. Chairman, just in closing, I strongly support the Justice Assistance Program. Former Congressman Hal Sawyer and myself in the 98th Congress wrote it, were very strongly supportive of it. The funding level of the bill, \$100 million for the fiscal year 1987 and \$200 million in fiscal year 1988 is all we can really assimilate.

There is permitted in this amendment prison construction. Believe me when I tell you that what is going to happen is that these moneys which were to be directed to drug enforcement are going to be siphoned off into prison construction at the State level. There is no question about it, because it will not be used for those task force operations that we want to see set up. We are increasing 15 more task forces around the country. We are setting up diversion investigative units. They are going to need local commitments, local police officers to man those teams. They are not going to have those resources. This is going to siphon it right away from those programs into prison construction, because they are the only programs that are going to be ready.

You are going to be funding States that have large surpluses and that is not what we should be doing in these fiscal times.

Mr. RANGEL. Mr. Chairman, I yield such time as he may consume to the majority leader, the gentleman from Texas [Mr. WRIGHT], the chief sponsor of this legislation.

Mr. WRIGHT. Mr. Chairman, I rise in support of the Rangel amendment.

The test of our seriousness is whether we are willing to provide support for those brave local forces on the front lines of this battle against a massive enemy, a slimy underground subculture that is financed to the tune of probably \$130 billion this year in unreported ill-gotten gains.

For too long we have allowed those whom we charge with the responsibility of enforcing our drug laws to be underfunded, undermanned, outgunned by an enemy that is invading our streets and our schools and our homes.

There has been established ample information, documented in the Narcotics Committee hearings, that this amount provided in the Rangel amendment is needed and can be effectively used in these 15 task forces that we are creating throughout the country.

Let us not send them into battle against an armed tank with a peashooter. Let us give them the tools they need to win the war.

Mr. YOUNG of Florida. Mr. Chairman, I rise in strong support of the amendment by my colleague from New York, Mr. RANGEL, to increase from \$100 to \$600 million the funding available for Federal grants to State and local authorities to assist with drug enforcement activities.

The problem of drug abuse is not new to our Nation, but never before has it been more widespread or available to Americans regardless of age or income. The legislation we consider today, H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986, will make an important contribution to our war against drugs by providing a wide range of increased resources and broader enforcement powers to Federal agencies in the effort to apprehend and convict drug smugglers. The Rangel amendment ensures that additional funds are also provided to reduce the supply of drugs available in our schools and on our streets.

During a meeting of a Pinellas County drug task force I took part in Monday, community leaders expressed concern that not enough resources are available at the local level to fight, let alone win, the battle against drugs on our streets. Participants in the meeting, called by the Pinellas-Pasco State attorney, included the Pinellas County sheriff, superintendent of schools, county commissioners, local chiefs of police, and directors of area drug abuse treatment and prevention programs. They recounted specific examples of setbacks in their effort to curtail the local drug trade because of insufficient funding. Law enforcement officials missed the opportunity to make more arrests in drug raids because not enough officers were available to take part in an operation. Additional patrols and undercover operations are not possible without additional financial support. More addicts could be treated by drug abuse centers if greater funding was available to hire staff and counselors.

The scope and intent of the legislation before us today is good because it will improve efforts at the Federal,

State, and local level to apprehend and convict drug smugglers and dealers by increasing the resources available to Federal agencies such as the Coast Guard, Customs Service, and the Drug Enforcement Administration who are on the front line at our borders in this difficult battle. It also widens the search and seizure powers of these agencies to enhance the effectiveness of their expanded operations. This legislation provides funds to hire more attorneys to prosecute drug dealers and gives the courts the authority to impose stiffer sentences on those who are convicted. And more than \$1 billion is provided over the next 3 years to construct new prisons to jail these criminals.

Provisions are included to also deal with the increasing supply of narcotics being smuggled into our country. The President and other U.S. officials are required to monitor the efforts of known drug producing nations to eradicate their illicit crops. Authority is granted in this legislation for the United States to withhold foreign assistance and trade rights for any nation refusing to cooperate in this regard. It also allows greater U.S. participation with law enforcement officials in these countries during eradication programs and in the apprehension of drug traffickers.

And the legislation before us today seeks to curb the demand for drugs by providing Federal assistance to State and local governments and schools for expanded prevention and awareness programs. Additional funds are available to assist with alcohol and drug abuse treatment programs.

This is an important package of legislation and I strongly support its wide-ranging approach to combat drug abuse, including the expanded use of U.S. military equipment and personnel. But Navy ships can't help in tracking the movement of drug supplies and dealers from one block to another in our communities. AWACS and ED-2 surveillance aircraft cannot detect 10-year-old children on bicycles who are acting as couriers to transport packages of crack. In addition to the provisions already included in this bill, we need an increased emphasis on Federal support to local law enforcement programs such as that provided by the Rangel amendment. Without this type of support, we cannot possibly expect to win the drug battle at the local level.

Pinellas County task force members presented information during our meeting Monday to show that the drug problem on our Nation's streets is getting worse. And there was general agreement that crack has exacerbated this problem.

Crack is extremely dangerous because it is immediately addictive. Local authorities say that this drug causes

such a high in first-time users, that the body keeps demanding more in an effort to repeat that same effect. However, that first-time high is impossible to achieve again, even when the quantity and repetition of its use is increased.

Equally troubling is the fact that crack is relatively inexpensive, costing as little as \$5 to \$15 per dose. This makes it available to all income brackets and age groups. There are reports that crack now is even available at elementary schools throughout our Nation.

Although the full extent of the harmful side effects of drugs such as cocaine and its derivative crack continue to be studied, it is known that they can cause death, even in well-conditioned athletes. There is general agreement that these drugs can cause severe and sometimes permanent adverse effects on the body. The health and safety of drug users clearly is jeopardized.

The health and safety of nonusers in our communities is also jeopardized. Addictive drugs such as crack force users to feed their habit regardless of the cost. Theft, robbery, and other crimes become the only alternative to provide their drug money.

Police reports document this threat to our families and neighbors. St. Petersburg historically has had a small crime problem compared to other urban areas, but in the first 6 months of this year, crime has risen dramatically, and police officials attribute it to increased drug use. During the first 6 months of this year, the number of robberies reported in St. Petersburg rose 81 percent, as compared to the first 6 months of 1985. Burglary increased 18 percent and larceny cases were up 10 percent.

The rising crime rate, like the problem of drug abuse, is not limited to St. Petersburg. Florida law enforcement officials note a major increase in crime statewide. In the first 6 months of this year, robbery rose 30 percent, breaking and entering increased 18 percent, and larceny cases were up 11.8 percent. Stolen property, which can be sold for money to purchase drugs, showed dramatic increases. The theft of motor vehicles increased 60 percent statewide, stolen construction machinery increased 41.5 percent, and stolen boats and motors rose 35 percent.

There are some who say that this legislation and the Rangel amendment will be too expensive. But the cost of this legislation will be small when compared to the devastation drug abuse causes thousands of families whose children are addicted to drugs. It will be small compared to the cost of crimes such as theft and robbery from our homes and businesses, particularly those of the elderly, who addicts prey upon to feed their expensive habits. The cost of this amendment

and legislation will be small relative to the lost potential of thousands of young people who terminate their educations because of drug problems. It will be small compared to the cost of providing medical care to the countless number of individuals who will become sick or die from drugs and drug overdoses.

Drug abuse is a national problem that affects all Americans, whether or not they are drug users. The legislation we consider today is a tough response to this difficult problem. Increased drug enforcement and eradication efforts, tougher sentences for drug suppliers, and expanded drug education and prevention programs will not work unless there is a commitment by the Federal Government, as provided by the Rangel amendment, to provide greater assistance to local law enforcement officials as they battle the drug epidemic in our schools and on our streets.

Mrs. LLOYD. Mr. Chairman, I rise in strong support of the Rangel-Gilman amendment to the historic legislation we are considering today to address the drug scourge that confronts our Nation and its citizens. I am a co-sponsor of the earlier legislation which makes up the heart of this amendment and a strong proponent.

Our State and local criminal justice systems have borne a heavy burden as the drug epidemic has swept our Nation. For too long we have responded to the increases in drug-related crimes, overcrowded court systems and overcrowded jails with inadequate Federal assistance. Our cities and States need desperate help and the omnibus antidrug bill is the vehicle to provide it.

While I applaud the efforts of the various committees which have worked on this bill, and commend our law enforcement community for the tremendous work they have done to date, I am concerned that the amount of funds provided for assistance to State and local law enforcement in this bill is woefully inadequate—\$100 million the first year, \$200 million the second, with a 50-50 match. The Rangel-Gilman amendment substantially increases funds for the State and local criminal justice systems, to \$625 million annually, and deserves our strong support.

The need for this amendment is crucial, particularly in Tennessee where we have seen a significant increase in drug trafficking. I urge my colleagues to join with me in reaffirming our commitment to strengthening our resources against the war on drugs—vote for Rangel-Gilman.

Mr. FAUNTROY. Mr. Chairman, I rise in strong support of H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986.

With bipartisan support, this Chamber will bring to the American people wide-ranging, detailed and complex legislative improvements in the laws by which we must attack the ever-increasing drug crisis in American life.

This crisis, though addressed in the past years by steadfast and dedicated attention in the Congress and elsewhere in our society, has deepened. An accurate reading of the

present data and symptoms indicates that in the near future, our country's security, our most important financial institutions, and the health and actual lives of a whole generation of young Americans are in peril. Never before in our country's history has our society been so imperiled.

As a member of the Select Committee on Narcotics Abuse and Control for the past 8 years, I have joined other Members in bringing before the committees of the Congress a steady stream of hearings and briefings that have guided and shaped the writing of laws implementing interdiction on the high seas, crop substitution, asset forfeiture and many other subtle and specific remedies for the dilemma facing every segment of our American society.

Now, we are confronted by information that shows us an overwhelming concentration by certain countries in flooding this country with death-dealing narcotics. While the American public is awakening, on a large scale, to the deadly danger the escalating drug problem causes to everyone, the full scope of the peril is just beginning to be evaluated by all of us.

As a member of the House Committee on Banking, Finance, and Urban Affairs, I want to compliment our chairman, Congressman FERNAND ST GERMAIN, for his brilliant work on the ongoing threat of money laundering. I support the work of our committee in this crucial financial area, and I commend the provisions in title V of H.R. 5484 on money laundering. These provisions will make an invaluable contribution to eliminating this danger to our national security and our international monetary and banking systems.

I also want to especially applaud the provisions in title III that give the U.S. Customs Service a whole new arsenal of instruments with which they can fight the war on drugs on our borders in a new and impressive variety of ways.

New provisions in title III as well, which give new tools to the Internal Revenue Service, will also increase our strength in fighting this war.

Beyond the specific provisions of the bill, I want to speak also in support of two amendments that address needed improvements in this historic omnibus drug legislation.

As the Congressman from the District of Columbia, I receive daily reports that reflect the conditions of people who are arrested and incarcerated in the city of Washington, DC. Depending on which day, month, and often agency, the criminal justice system is flooded by drug-addicted criminal offenders that now enter the system—both local and Federal. From 60 to 80 percent of the people entering our jails are drug-involved. Whether Federal or local, there is little or no treatment or counseling available for these cases. They enter with a drug-use problem, they are reported "able to get anything they need in the underground movement while incarcerated" and they return to our communities in worse shape than when they entered. That condition speaks to the need for drug treatment within the prison. There is also another more crucial need in prison problems today—prison overcrowding. Throughout the United States numerous local and State jurisdictions are under court order for overcrowding in their prison facilities.

For those reasons, I urge my colleagues to support an amendment introduced by Congressman CHARLES RANGEL, chairman of the Select Committee on Narcotics Abuse and Control and Congressman BENJAMIN GILMAN, ranking member of the select committee. This amendment would increase the amounts authorized in title VI for grants to States for State and local drug law enforcement efforts. I also urge support for the provision in this amendment which reduces the matching funds requirement from 50 percent to 10 percent. I share the Rangel-Gilman views expressed in their statement that it has been the failure of the Federal Government to halt the importation and interstate distribution of massive quantities of illicit cocaine, heroin, marijuana and other illegal drugs that makes it imperative that the Federal Government share the heavy responsibilities of costs of drug problems in the States and local jurisdictions. It is also the language in the Rangel-Gilman amendment which would permit formula grant funds to be used for prison construction that is one of the most needed provisions to be added to H.R. 5484.

Congressman CLAUDE PEPPER has submitted an amendment on increasing the funding for drug treatment (title IX). The Pepper amendment would increase from \$100 million to \$200 million a base figure for drug treatment within title IX under the provisions provided by the Committee on Energy and Commerce. There are many social signals immediately available to us as citizens through the media, as legislators through reports from hospital emergency rooms, police and emergency ambulance runs that show us how enormous is the need for treatment on both an emergency and rehabilitation basis for the drug-induced health crises. These figures tell only part of the story on the need for treatment funding, shocking as they are. Another set of figures needs more publicity—the numbers of people who ask for treatment in their drug-induced condition, and for whom there is nothing available except a list, which sometimes is a year in waiting. We must face the crisis of treatment-need all over this country that is with us today and we must responsibly project the escalating need for treatment in the near future, based upon today's statistics of users. I plead with my colleagues to support the increased treatment funding provisions in Congressman PEPPER's amendment through their "aye" votes.

The time is short; our work on the Omnibus Drug Act will be historic. The citizens of the United States are now fully participatory partners in our war on drugs. We must now vote to provide the instruments and funds to win this war.

Mr. GARCIA. Mr. Chairman, I rise in strong support of the Rangel amendment to H.R. 5484, the Omnibus Drug Enforcement, Education and Control Act of 1986. Finally, we have acknowledged the fact that there is a drug epidemic plaguing our Nation. For many years, I, along with the chairman of the Select Committee on Narcotics Abuse and Control, Mr. RANGEL and many other Members from poor urban areas have been trying to bring the issue of drug abuse to the forefront of this body's agenda in order that we may devise a

comprehensive strategy to break the grip that drugs have on our society.

Unfortunately, it was not until the drug problem firmly entrenched itself in middle America before the country began to take notice. Not only do we find widespread drug abuse in the Bronx, Harlem, and Watts, but we find it in Grosse Point, MI; Beverly Hills; and Salt Lake City. Illegal drugs such as crack/cocaine, heroin, marijuana, acid, speed, quaaludes, PCP, and others have taken countless lives. Moreover, drugs have wrecked careers, broken homes, invaded schools, incited crime, tainted businesses, toppled heroes, corrupted policemen and politicians, bled billions of dollars from our economy and in some measure infected every corner of our public and private lives.

Your children, my children, your friends, my friends have all been affected in one way or another by the drug plague. Whether it was an overdose by a friend or relative, a victim of a drug-related crime, or the loss of abilities as a result of drug use or abuse. We have all been affected.

Mr. Chairman, this legislation before us today addresses every facet of our society's drug problem in order that we may eradicate this plague from our society. H.R. 5484 contains provisions for both the demand and supply sides of the drug problem. The Energy and Commerce Committee's portion of the bill authorizes adequate resources for a serious commitment to treatment and prevention. Unfortunately, resources authorized for State and local law enforcement efforts by the Judiciary Committee are not adequate to meet the demands of an all out war on drugs. We are willing to invest trillions to prepare for conventional war, but we have found it to be very difficult to make the same investment and commitment to the war on drugs.

Therefore, I urge my colleagues to support the Rangel amendment which would raise the authorization for State and local law enforcement efforts to adequate levels. Again, I urge my colleagues to support H.R. 5484, the Omnibus Drug Enforcement, Education and Control Act of 1986. Let our Nation say no to drugs once and for all.

Mr. FEIGHAN. Mr. Chairman, I rise in enthusiastic support of the amendment offered by the gentleman from New York, the distinguished chairman of the Select Committee on Narcotics, Mr. RANGEL.

No one here today needs to be convinced of the importance of fighting drugs. We all know about their devastating effect on our society. We've all read statistics which tell us that the number of deaths from cocaine has tripled in the last 5 years. We've all seen reports indicating that over half of the crime suspects in our major cities are acting under the influence of drugs.

The link between drugs and crime is clear—and deadly. And if we are going to break that link, if we are going to fight the war on drugs effectively, we must devote resources to those on the front lines of the battle—local police and law enforcement officials.

The bill before us today doesn't pay attention to that central fact. It beefs up our efforts on every level of the battle except that which most consistently engages the enemy. Yes,

we must be adding money for drug education and treatment. Yes, we must work to stamp out drugs in the countries where they are grown and to stop them from crossing our borders. But all of this doesn't necessarily make the job of a policeman busting a dealer any easier. As it stands right now, this bill provides plenty of money for our support forces, but it starves the troops on the front lines.

Let me give you an example: The sheriff of Cuyahoga County in my district is trying to control drug trafficking in 60 communities with a population of 1.5 million. But his entire budget for that anti-drug effort is only \$21,000—half of his salary—and he gets no money at all from the Federal Government. With 4 months to go in 1986, he has only \$1,000 remaining in that fund. One thousand dollars—the kind of money a street dealer can make in minutes. These dealers know how to evade the law, and they can afford expensive equipment to make sure they get away with their crimes.

That leaves Sheriff McFaul fighting battles against an enemy that can outgun him, outrun him, and outspend him when it has to. To meet these criminals on their own turf, the sheriff needs quality surveillance equipment like cameras and nightscopes. His men need body transmitters to keep in touch. And they need more vehicles to catch the pushers once they are spotted.

All of this costs money—money that the sheriff, and others like him across the country, just don't have access to right now. We are telling these brave and hard-working men and women that we care about the drug fight. We are telling them that we want the drug pushers off of our streets and out of our neighborhoods. But we are not giving them the funds they need to do the job right. If local enforcement officials are to have faith in our commitment to fight drugs, they need Federal aid which at least approaches their tremendous needs.

Passage of this amendment would demonstrate that commitment. Based on H.R. 526, which the gentleman from New York introduced with 140 cosponsors earlier this year, it would ensure that we devote \$625 million a year to State and local drug enforcement programs. It would permit all of that funding to go directly to localities, and it would allow more jurisdictions to participate in the program by lowering the matching grant requirement from 50 percent to 10 percent.

I've talked to law enforcement leaders from my community and other communities across the country, and I am convinced that we must do more to help them in the battles they face every day and every night. Some here today may say that this amendment costs too much, that it gives too much money to our police and other law enforcement officials. But we must put that claim in perspective: First, this is the only section of the bill dealing with local law enforcement, this is all the money local police and enforcement officials will get to fight drugs. For all enforcement officials, in every city, county, and town across the country, we are asking for \$625 million a year.

Yes, that is a lot of money. But as everyone agrees, we are in a war against drugs. Drugs are a direct threat to our national security. To

combat this threat we are asking today for less than one day of Pentagon funding. In the time it's taken to conduct this debate the Pentagon has spent the money we are asking for in this amendment. All we want is a few hours of national defense funding to fight the enemy that is all around us—the enemy that injures our children, increases crime, and infects our future with each life it wastes.

I urge my colleagues to vote for the Rangel amendment.

The CHAIRMAN. All time has expired on this amendment.

The question is on the amendment offered by the gentleman from New York [Mr. RANGEL].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LUNGREN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 242, noes 171, not voting 18, as follows:

[Roll No. 371]

AYES—242

Akaka	Edgar	Lantos
Alexander	Edwards (CA)	Leath (TX)
Anderson	Edwards (OK)	Lehman (CA)
Andrews	Emerson	Leland
Annunzio	English	Lent
Anthony	Erdreich	Levin (MI)
Applegate	Evans (IL)	Levine (CA)
Aspin	Fascell	Lewis (FL)
Barnes	Feighan	Lipinski
Bates	Flippo	Lloyd
Bennett	Florio	Long
Bentley	Foglietta	Luken
Berman	Foley	Lundine
Bevill	Ford (MI)	MacKay
Biaggi	Ford (TN)	Manton
Boggs	Fowler	Martin (NY)
Boland	Frank	Martinez
Bonior (MI)	Frost	Matsui
Borski	Gallo	Mavroules
Boucher	Garcia	Mazzoli
Boxer	Gaydos	McCloskey
Brooks	Geddeson	McCurdy
Broomfield	Gephardt	McDade
Brown (CA)	Gibbons	McGrath
Bruce	Gilman	McHugh
Bryant	Gordon	McKernan
Bustamante	Gray (IL)	McKinney
Byron	Gray (PA)	McMillan
Carr	Green	Mica
Chapman	Guarini	Mikulski
Clay	Hall, Ralph	Miller (CA)
Coelho	Hamilton	Mineta
Coleman (MO)	Hammerschmidt	Mitchell
Coleman (TX)	Hatcher	Moakley
Collins	Hawkins	Molinari
Conyers	Hayes	Mollohan
Cooper	Hefner	Moody
Coughlin	Hendon	Moore
Courter	Henry	Morrison (CT)
Coyne	Hertel	Morrison (WA)
Craig	Hillis	Mrazek
Crockett	Hopkins	Murtha
Daschle	Horton	Natcher
de la Garza	Howard	Neal
Dellums	Hoyer	Nelson
Dicks	Hubbard	Nichols
Dingell	Jacobs	Nowak
DioGuardi	Jeffords	Oakar
Dixon	Johnson	Ortiz
Donnelly	Jones (NC)	Owens
Dornan (CA)	Jones (OK)	Parris
Dowdy	Jones (TN)	Pashayan
Downey	Kanjorski	Pepper
Duncan	Kemp	Perkins
Durbin	Kennelly	Price
Dwyer	Kildee	Pursell
Dymally	Kindness	Quillen
Dyson	Kolter	Rahall
Eckart (OH)	LaFalce	Rangel

Reid	Skelton
Richardson	Smith (FL)
Rinaldo	Smith (NJ)
Robinson	Smith, Robert
Rodino	(OR)
Roe	Snowe
Roemer	Solarz
Rose	Solomon
Rostenkowski	St Germain
Rowland (CT)	Stark
Rowland (GA)	Studds
Roybal	Swift
Savage	Tauzin
Saxton	Taylor
Scheuer	Thomas (GA)
Schroeder	Torres
Schuette	Torricelli
Schulze	Towns
Schumer	Trafficant
Seiberling	Udall
Sharp	Vander Jagt
Shelby	

NOES—171

Archer	Gonzalez	Panetta
Armey	Goodling	Pease
Atkins	Gradison	Penny
AuCoin	Gregg	Petri
Badham	Gunderson	Pickle
Barnard	Hall (OH)	Porter
Bartlett	Hansen	Ray
Barton	Hartnett	Regula
Bateman	Hiler	Ridge
Bedell	Holt	Ritter
Bellenson	Hughes	Roberts
Bereuter	Hutto	Rogers
Bilirakis	Hyde	Roth
Bliley	Ireland	Roukema
Boehrlert	Jenkins	Russo
Bonker	Kaptur	Sabo
Bosco	Kasich	Schaefer
Boulter	Kastenmeier	Schneider
Brown (CO)	Klecza	Sensenbrenner
Burton (IN)	Kolbe	Shaw
Callahan	Kostmayer	Shumway
Carney	Kramer	Shuster
Carper	Lagomarsino	Siljander
Chandler	Latta	Siskis
Chappell	Leach (IA)	Skeen
Cheney	Lehman (FL)	Slatery
Clinger	Lewis (CA)	Slaughter
Coats	Lightfoot	Smith (IA)
Cobey	Livingston	Smith (NE)
Coble	Loeffler	Smith, Denny
Combest	Lott	(OR)
Conte	Lowery (CA)	Smith, Robert
Crane	Lowry (WA)	(NH)
Daniel	Lujan	Snyder
Dannemeyer	Lunnen	Spence
Darden	Mack	Spratt
Daub	Madigan	Staggers
Davis	Marlenee	Stallings
DeLay	Martin (IL)	Stangeland
Derrick	McCain	Stenholm
DeWine	McCandless	Stokes
Dickinson	McCollum	Stump
Dorgan (ND)	McEwen	Sundquist
Dreier	Meyers	Sweeney
Early	Michel	Swindall
Eckert (NY)	Miller (OH)	Tallon
Evans (IA)	Miller (WA)	Tauke
Fawell	Monson	Thomas (CA)
Fazio	Montgomery	Valentine
Fiedler	Moorhead	Vucanovich
Fields	Murphy	Walker
Fish	Myers	Weber
Franklin	Nielson	Whitehurst
Frenzel	Oberstar	Whittaker
Fuqua	Obey	Williams
Gekas	Olin	Wylie
Gingrich	Oxley	Zschau
Glickman	Packard	

NOT VOTING—18

Ackerman	Grotberg	Strang
Boner (TN)	Huckaby	Stratton
Breaux	Hunter	Synar
Burton (CA)	Markey	Weaver
Campbell	Rudd	Whitten
Chappie	Sikorski	Young (AK)

□ 1530

The Clerk announced the following pair:

On this vote:

Mr. Stratton for, with Mr. Campbell against.

Mr. COBLE changed his vote from "aye" to "no."

Messrs. MANTON, McCURDY, DOWDY of Mississippi, JEFFORDS, DUNCAN, VOLKMER, Mrs. JOHN-SON, and Mr. MILLER of California changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. ROWLAND of Georgia. Mr. Chairman, I rise in support of the bill.

Mr. Chairman, as a cosponsor of H.R. 5484, I can attest to the fact that the House is dead serious about eliminating the drug problem—a problem which threatens the lives of our children and inflicts upon this country billions of dollars in medical and rehabilitative costs.

This is a bipartisan effort which attacks the drug problem on all fronts. In addition to the hard-hitting aspects of this legislation—strengthening the enforcement of drug laws, stemming the flow of illegal drugs into the country, increasing penalties for illegal drug activities—the bill puts strong emphasis on drug education and treatment.

I am especially pleased that through the crackdown on drug usage, this legislation will assist us in our battle against another health threat—AIDS. A provision within the bill funds educational programs relating to the risks of AIDS associated with the use of intravenous drugs. Additionally, educating the public regarding the danger of AIDS transmission from pregnant women to their unborn children is highlighted. It also calls on the CDC to cooperate with the Agency for Substance Abuse Prevention to develop educational programs related to AIDS and drug use.

I hope that the Clearinghouse on Alcohol and Drug Abuse will be sure to distribute its information to all school systems, including universities and colleges. As you know, Mr. Chairman, I have previously expressed my concern that college students may be at somewhat higher risk for drug abuse and sexually transmitted diseases and so we should devote greater efforts to educate them to the dangers that they face. This legislation would at least initiate educational programs to reach out to students.

Another aspect of this bill which is of special interest to me is the provision for reimbursement for treatment costs. While I applaud the initiation of funding for the treatment of individuals with drug problems, I believe that a much greater commitment will eventually be required if we are to successfully return these disabled individuals to full participation in our society. I

would urge that the study called for in title IX, section 906, to examine the available coverage for drug treatment and to report to the Congress on meeting identified needs, reviews every Government health program to assure that all possible avenues for coverage have been investigated and determinations made on the amount of reimbursement available.

Mr. Chairman, these first steps we are taking with the passage of this bill are only the beginning of this great undertaking. Indeed, we must wage a war on drugs and anticipate a long and difficult struggle before we achieve success.

□ 1540

The CHAIRMAN. Under the rule, amendment No. 25 is in order.

Does the gentleman from Oklahoma [Mr. ENGLISH] wish to offer amendment No. 25?

If not, under the rule, amendment No. 27 is in order.

Mr. LUNGREN. Mr. Chairman, in light of the fact that amendment No. 27 would cut \$300 million from the section to which we just added \$1 billion, I have counted the votes and, therefore, I will withdraw my amendment at this time.

The CHAIRMAN. The gentleman from California withdraws his amendment.

The rule next makes in order amendment No. 28.

AMENDMENT OFFERED BY MR. PEPPER

Mr. PEPPER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEPPER: Page 220, after line 6, insert the following:

"(5) Notwithstanding paragraph (1), the Administrator may waive the non-Federal share requirement applicable to a grant made with funds reserved under this subsection if the Administrator determines that the applicant for such grant is financially unable to satisfy such requirement.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. PEPPER] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. HUGHES. Mr. Chairman, I do not intend to oppose the gentleman's amendment. I understand the gentleman's amendment would give the Drug Enforcement Administration the authority to waive the 50-50 matching discretionary portion of the amendment.

The CHAIRMAN. Is the gentleman opposed to the amendment?

Mr. HUGHES. Mr. Chairman, I do not intend to oppose the amendment.

The CHAIRMAN. In that event, the gentleman from Florida [Mr. PEPPER] will be recognized for 5 minutes.

Mr. LEWIS of California. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California [Mr. LEWIS] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. PEPPER].

Mr. PEPPER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of my amendment to allow the Administrator of the Office of Justice Assistance Drug Grant Program the ability to waive the non-Federal share matching requirement of 50 percent contained in the legislation under the discretionary State and local drug enforcement grant program. The reason I propose this amendment is that I do not believe that an applicant for assistance under this provision should be precluded from obtaining vitally important resources just because of financial constraints. I completely understand the rationale that an applicant might exercise better management over the Federal dollars if they are required to match a grant dollar for dollar. Unfortunately, in my home State of Florida and many other States most of the prospective applicants cannot fiscally afford to apply for the resources made available under this program. Take for instance Dade County, where the anticipated Federal budget cuts require the county to raise \$53 million next year to maintain current services, however, under State law the county's property tax authority will only permit the county to raise \$12 million. Dade County would be forced to cut very valuable services in order to meet any matching requirement. To ensure that the Federal dollars go to the areas where they are most urgently needed the Administrator should not be prohibited from making grants to a drug infested area because the intended area is unable financially to satisfy the matching requirement. We must remember that our primary objective is to reduce crime and return our cities to the people. We can impose fiscal accountability in certain instances by other means.

The Judiciary Committee included a discretionary grant program at my request. I would have preferred a program with a higher funding level and with a lower matching component. However, even with these shortcomings, I firmly believe that a program of this type is a necessary complement to a nondiscretionary grant formula based primarily on population by providing the Administrator with the option of providing more resources to an area that is particularly hard hit by the drug menace.

I would like to take this time to express my sincere appreciation to Mr. RANGEL for his success at increasing the funding level for the formula grant program. There is no question that State and local law enforcement agencies in all sections of our Nation

can utilize these additional revenues in their war on drugs. In my own State of Florida we experienced a 15-percent increase in crime in 1985, 64 percent of all our homicides are related to substance abuse and similarly an estimated 60 percent of all our crimes are related to narcotics. The police officers in my county are overworked. Their response time is falling and in many instances they have become report takers with little time for apprehending criminals. These funds will have a tremendous positive impact on the crime situation in south Florida.

Mr. Chairman, in conclusion I urge my colleagues to vote for my amendment especially in light of the previous vote to reduce the matching requirement under the nondiscretionary grant program to 10 percent has just been adopted. Matching requirements can have value but they can also be a mistake. Let the Administrator decide under the discretionary program if a 50-percent requirement for a given applicant would be proper.

Mr. Chairman, I want to thank the distinguished gentleman from New Jersey [Mr. HUGHES] for his kindness in not opposing my amendment.

We want the maximum participation possible from all those who have the curse of this drug matter upon them; and there may be some, and no doubt are, many States which are very much beset by the drug problem that are not able to match the 50-50 requirement of the bill.

All my amendment does is to give discretion to the Administrator to waive the 50-percent requirement to the extent that he feels necessary to get the maximum participation of the local authorities in the country in fighting the drug problem.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman.

Mr. LEWIS of California. Mr. Chairman, I am rising simply because, unless I am mistaken, in the last amendment which just passed, we reduced that local requirement to 10 percent; and I am wondering whether we really have a serious problem with local agencies not being able to afford that 10 percent.

Mr. PEPPER. It is not waived; it is 50 percent in the bill. All my amendment says is if there are those who could participate but cannot put up quite 50 percent, that the Administrator may have discretion to waive the 50 percent.

Mr. HUGHES. Mr. Chairman, will the gentleman yield to me?

Mr. PEPPER. I understand the discretionary part was not removed in the last amendment.

I yield to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, in response to our colleague from California, Mr. LEWIS, the Rangel amendment was not directed, really, to changing the matching requirement under the discretionary program which the gentleman from Florida, Mr. PEPPER's amendment was directed to.

That is a 50-50 match, as part of that particular discretionary program. The gentleman's amendment would reduce that or give the Drug Enforcement Administrator the authority—he is a signoff authority—the right to waive that match in his sole discretion, as I understand.

Mr. PEPPER. Mr. Chairman, I hope the gentleman would not oppose the amendment because otherwise there will be many who need this help and not be able to get it.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman.

Mr. LEWIS of California. Mr. Chairman, I rose to take the time of the opposition not because I had the intention of opposing the gentleman's position, but I wanted to clarify whether it was his intention to go beyond the last amendment; and apparently you do want to reach the discretionary—

Mr. PEPPER. Only the discretionary area.

Mr. LEWIS of California. I thank the gentleman.

Mr. PEPPER. I thank the gentleman.

Mr. Chairman, I yield back the remainder of my time.

Mr. LEWIS of California. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. PEPPER].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment No. 29 is in order.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCOLLUM: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneous Provisions

SEC. 671. REMOVAL OF PROHIBITION REGARDING CONVICT LABOR.

(a) IN GENERAL.—The first section of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (41 U.S.C. 35), is amended—

(1) in subsection (d)—

(A) by striking out "and no convict labor"; and

(B) by striking out "except that" and all that follows through "title 18, United States Code"; and

(2) by adding at the end the following:

"Any law or Executive order containing prohibitions on the use of convict labor in the manufacture, production, or furnishing of any goods purchased by the Federal Government does not apply to convict labor which satisfies the conditions of section 1761 of title 18, United States Code. This section does not apply to any contract carried out by convict labor."

(b) EFFECTIVE DATE.—The amendments made by this section shall not apply to contracts entered into before the date of the enactment of this Act.

□ 1550

Mr. McCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Under the rule the gentleman from Florida [Mr. McCOLLUM] will be recognized for 5 minutes, and a Member opposed there to will be recognized for 5 minutes.

Mr. MURPHY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. At the appropriate time, the gentleman from Pennsylvania [Mr. MURPHY] will be recognized for 5 minutes.

The Chair now recognizes the gentleman from Florida [Mr. McCOLLUM] for 5 minutes.

Mr. McCOLLUM. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this amendment makes a significant change in the law with regard to States. A lot of what we have been doing up until now has been dealing strictly with the Federal Government except for the grant programs we passed just a few minutes ago. The problem is, though, as we passed minimum mandatory sentences, we have overcrowding in Federal prisons, we also have overcrowding in the State prisons. Today the State prisons of this country are full of drug offenders.

My amendment is a very simple one; it allows State prison industry-made goods to be sold to the Federal Government. We have a fledgling prison industry group out there in the State prisons that simply do not have a marketplace of any quantity and size for their goods. Since 1936 we have prohibited the selling of prison-made goods to the Federal Government except under a very limited circumstance, when a contract is under \$10,000. There is no restriction on their selling prison industry-made goods among themselves, to other States and State governments or within their own States. But the fact is that we have long neglected, for 50 years, revisiting the question of the marketplace for these goods.

When we have overcrowding caused by the drug questions that we are dealing with in this bill, it seems to me

that it is now time that we address this long-overdue problem. We have said in our bill that we are going to build 17 new Federal prisons. We have got to do that. A good hunk of the money that is in this bill is addressed to that problem. But we have not looked at the States as we should.

Chief Justice Burger's National Task Force on Prison Industry said that we should remove this cap, this restriction on State prison industry sales to the Federal Government. That is what the bill does. If we do it, we can have responsible job training in our prisons so that we will not have such a high rate of recidivism. When we have these young people in prisons who are there for drug-related offenses, we need to give them something to do, some task, some learning, some skill.

Unfortunately, our prison industries are woefully inadequate. The only way we are ever going to get them up to speed is if we go forward with a process of allowing them to sell their products so that they can have the resources to get those skills up to speed.

By passing this amendment, we also save a lot of dollars for the taxpayers in the States. We would pay for the room and board for a lot of those State-housed drug criminals. We would free up money that could be used for other things such as education, housing, health care in the States.

Today the States of the United States spend over \$7 billion a year to house State prisoners, over \$7 billion a year. That is greater than \$14,000 per prisoner. All of that is a load on the State taxpayers. If we would let our prison industries grow as Chief Justice Burger wanted us to do and as he suggested, we build factories within fences as this amendment would encourage, we could get to the point one of these days not too far down the road where we would have self-sufficient, at least for room and board purposes, State prisons with their industries, with products that could be made, and we would have good employment training for these prisoners who are going to go back out, for the most part, on the streets someday, needing a job, needing to join a union and needing to get involved.

Mr. Chairman, I urge adoption of this very realistic amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. MURPHY] for 5 minutes.

Mr. MURPHY. I thank the chairman.

Just very briefly, I rise in opposition to what is tantamount to prison or slave labor. This is the type of labor they use in the totalitarian countries, the Soviet countries. But here in America it is abhorrent to our system.

The Small Business Council opposes this, all of the labor unions are in opposition to this, the textile industry is in opposition to this. There are enough jobs to do in the prison itself, which is usually a small city in itself, to train and keep prisoners occupied.

Having them out picking up trash on the highways is all right but not competing with the law-abiding, legitimate work interests.

Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. I thank the gentleman for yielding.

Mr. Chairman, I do not quite share the views of the gentleman from Pennsylvania about convict labor.

I do think the gentleman from Florida has a good idea, and I cosponsored his bill which would make some changes in the Walsh-Healey on the limitation of convict labor with respect to Federal contracts.

But I fear I have reservations about this particular formulation, which goes a bit farther. It also suggest that the act, itself, that is the section does not apply to any contract carried out by convict labor.

We do not know what that effect is with respect to health and safety laws, with respect to time and a half or other wage provisions.

I do suggest that the Committee on Education and Labor and the Committee on the Judiciary do have hearings on this question, but I think in the context of this bill, with this language we ought not to approve it.

Mr. MURPHY. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I really do not think we should support this amendment. Mr. Chairman, I advocate a "no" vote. This is hardly the place or the bill in which someone should be dealing with prison reform or prison rehabilitation. I think this matter should properly be discussed by the Committee, but just because we have an omnibus bill I do not think we should be creative enough to get programs that will be actually competing against small business people.

Mr. Chairman, I yield back the balance of my time and ask for a "no" vote.

Mr. MURPHY. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. I thank the gentleman for yielding.

Mr. Chairman, I deeply respect the gentleman from Florida, but I must point out that this would be devastating to the small-business man who deals with the Federal Government, who would be competing with slave labor coming from the prison systems, and I would be for the amendment if you added in all the costs of keeping these inmates in the prisons to the

price of the goods. But I just think that this well-intentioned amendment is very misguided, and I urge my colleagues to vote "no" on the amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MURPHY] has 1½ minutes remaining and the gentleman from Florida [Mr. McCOLLUM] has 2 minutes remaining.

Mr. MURPHY. Mr. Chairman, I yield such time as he may consume to the chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. I thank the gentleman for yielding.

Mr. Chairman, there is no question that an effective prison rehabilitation program should include job training and work experience. However, this amendment has ramifications far beyond the rehabilitation of prison inmates.

The amendment is to the Walsh-Healey Act which is under the jurisdiction of the Committees on Education and Labor and the Judiciary. The use of convict labor in Federal contract work has not been addressed recently by the Committee on Education and Labor nor, to my knowledge, by the Committee on the Judiciary. Thus, the House is being presented with a far-reaching proposal without the benefit of consultation with or information from the committees having jurisdiction over the act to be amended. Moreover, I am not aware that any assessment has been made to determine the likely benefit or potential harm of this proposal.

The amendment removes the prohibition on the use of convict labor in the performance of Federal supply contracts without any wage-rate requirements; overtime compensation requirements; or any other worker protections. We are being asked to make an informed judgment about a proposal that could have a ruinous effect on local economies and the living standards of American workers. We must ask ourselves to what extent will the regular work force be displaced by prison inmates? How do we explain that to 8 million unemployed, and an estimated 5 million underemployed and discouraged job seekers? Will this be another roadblock to employment opportunity for minorities who have a chronic unemployment rate in the high teens? Isn't this counterproductive to Federal job training programs? To what extent will living standards be undermined by the absence of a specific wage-rate requirement? Without the answers to these very basic questions, we should not embark on a program, however laudable its goals, if it has the result of exacerbating our serious unemployment problems and pushing more workers onto the welfare rolls.

I urge defeat of the amendment.

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM] has 2 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the amendment. In my home State of Washington we have a very successful prison industry and this has not brought on the baleful results predicted by some of my colleagues.

Indeed, it improves the quality of rehabilitation, giving prisoners useful skills for a life of recovery from crime. Without these programs, the only skills most prisoners leave the penitentiary with are ones that will make them more effective criminals.

The amendment made by the gentleman from Florida also helps lessen the terrible financial pressures faced by our prisons. It is fiscally responsible that our prisons be more self-supporting.

The \$10,000 cap on the current law is archaic. It was passed back in 1936. Drug-related crime has radically changed the problems faced by our prisons today, and a half-century-old statute is no way to deal with them.

Mr. McCOLLUM. Mr. Chairman, I yield the balance of my time to myself.

The CHAIRMAN. The gentleman from Florida is recognized for 1 minute.

Mr. McCOLLUM. I thank the Chairman.

At this point in time I think it is appropriate to point out, as the gentleman from Washington did, that there are a few fairly viable, young, thriving prison industries in this country, including Washington State's, Minnesota's, Kansas', Florida's, and a few others. But they do not have a marketplace for their goods. It is ridiculous what we have done to hamper them with age-old, antiquated ideas about how somehow there is going to be harm to business or labor out of letting prisoners do constructive work, produce a profit for the prison system, allow the taxpayers of the States to save money by doing that and give job training to the prisoners who are in those prisons. That is what it is all about. We here in this bill are trying to do something to alleviate the cost burden on our Federal and State governments to take care of drug-related criminals. We have drug-related criminals. We need to do what we can to rehabilitate them. We need to do what we can to save the taxpayers money. That money would be much better spent on education, health, a lot of other things.

Please vote for the McCollum amendment allowing prison industries to grow and do what Chief Justice Burger's task force is recommending

after a lot of study over all of the issues that some of the critics say have not been studied; they have looked at it, they have said they know what they are.

Vote "yes" on the McCollum amendment.

The CHAIRMAN. On this amendment, all time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 72, noes 339, not voting 20, as follows:

[Roll No. 372]

AYES—72

Anthony	Fish	MacKay
Applegate	Gekas	McCandless
Archer	Glickman	McCollum
Badham	Goodling	McEwen
Barnard	Gordon	Miller (OH)
Bartlett	Gradison	Monson
Billakis	Gray (IL)	Morrison (WA)
Boulter	Gregg	Nelson
Brown (CO)	Hall (OH)	Nielson
Callahan	Henry	Oxley
Carney	Hertel	Packard
Carper	Hillis	Rowland (CT)
Chandler	Holt	Shaw
Clinger	Hughes	Shumway
Coats	Hunter	Slattery
Conyers	Hyde	Smith, Robert
Crane	Kasich	(NH)
Dannemeyer	Kindness	Stangeland
DeWine	Kolbe	Vander Jagt
Dickinson	Kramer	Vucanovich
Dreier	Lehman (FL)	Walker
Durbin	Livingston	Whittaker
Fawell	Lowery (CA)	Wolf
Fiedler	Lujan	
Fields	Lungren	

NOES—339

Akaka	Burton (IN)	Dornan (CA)
Alexander	Bustamante	Dowdy
Anderson	Byron	Downey
Andrews	Carr	Dwyer
Annunzio	Chapman	Dymally
Armey	Chappell	Dyson
Aspin	Cheney	Early
Atkins	Clay	Eckart (OH)
AuCoin	Cobey	Eckert (NY)
Barnes	Coble	Edgar
Barton	Coelho	Edwards (CA)
Bateman	Coleman (MO)	Edwards (OK)
Bates	Coleman (TX)	Emerson
Bedell	Collins	English
Bellenson	Combust	Erdreich
Bennett	Conte	Evans (IA)
Bentley	Cooper	Evans (IL)
Bereuter	Coughlin	Fascell
Berman	Courter	Fazio
Bevill	Coyne	Feighan
Biaggi	Craig	Flippo
Bliley	Crockett	Florio
Boehlert	Daniel	Foglietta
Boggs	Darden	Foley
Boland	Daschle	Ford (MI)
Boner (TN)	Daub	Ford (TN)
Bonior (MI)	Davis	Fowler
Bonker	de la Garza	Frank
Borski	DeLay	Franklin
Bosco	Dellums	Frenzel
Boucher	Derrick	Frost
Boxer	Dicks	Fuqua
Brooks	Dingell	Gallo
Broomfield	DioGuardi	Garcia
Brown (CA)	Dixon	Gaydos
Bruce	Donnelly	Gejdenson
Bryant	Dorgan (ND)	Gephardt

Gibbons	McDade	Schulze
Gilman	McGrath	Schumer
Gingrich	McHugh	Seiberling
Gonzalez	McKernan	Sensenbrenner
Gray (PA)	McKinney	Sharp
Green	McMillan	Shelby
Guarini	Meyers	Shuster
Gunderson	Mica	Siljander
Hall, Ralph	Michel	Sisisky
Hamilton	Miller (CA)	Skeen
Hammerschmidt	Miller (WA)	Skelton
Hansen	Mineta	Slaughter
Hartnett	Mitchell	Smith (FL)
Hatcher	Moakley	Smith (IA)
Hawkins	Molinari	Smith (NE)
Hayes	Mollohan	Smith (NJ)
Hefner	Montgomery	Smith, Denny
Hendon	Moody	(OR)
Hiler	Moore	Smith, Robert
Hopkins	Moorhead	(OR)
Horton	Morrison (CT)	Snowe
Howard	Mrazek	Snyder
Hoyer	Murphy	Solarz
Hubbard	Murtha	Solomon
Hutto	Myers	Spence
Ireland	Natcher	Spratt
Jacobs	Neal	St Germain
Jeffords	Nichols	Staggers
Jenkins	Nowak	Stallings
Johnson	Oakar	Stark
Jones (NC)	Oberstar	Stenholm
Jones (OK)	Obey	Stokes
Jones (TN)	Olin	Strang
Kanjorski	Ortiz	Studds
Kaptur	Owens	Stump
Kastenmeier	Panetta	Sundquist
Kemp	Parrisi	Sweeney
Kennelly	Pashayan	Swift
Kildee	Pease	Swindall
Kleczka	Penny	Tallon
Kolter	Pepper	Tauke
Kostmayer	Perkins	Tauzin
LaFalce	Petri	Taylor
Lagomarsino	Pickle	Thomas (CA)
Lantos	Price	Thomas (GA)
Latta	Pursell	Torres
Leach (IA)	Quillen	Torricelli
Leath (TX)	Rahall	Towns
Lehman (CA)	Rangel	Trafficant
Leland	Ray	Traxler
Lent	Regula	Udall
Levin (MI)	Reid	Valentine
Levine (CA)	Richardson	Vento
Lewis (CA)	Ridge	Visclosky
Lewis (FL)	Rinaldo	Volkmer
Lightfoot	Ritter	Walden
Lipinski	Roberts	Walgren
Lloyd	Robinson	Watkins
Loeffler	Rodino	Waxman
Long	Roe	Weber
Lott	Roemer	Weiss
Lowry (WA)	Rogers	Wheat
Luken	Rose	Whitehurst
Lundine	Rostenkowski	Whitley
Mack	Roth	Wirth
Madigan	Roukema	Wise
Manton	Rowland (GA)	Wolpe
Marlenee	Roybal	Wortley
Martin (IL)	Russo	Wright
Martin (NY)	Sabo	Wyden
Martinez	Savage	Wyllie
Matsui	Saxton	Yates
Mavroules	Schaefer	Yatron
Mazzoli	Scheuer	Young (FL)
McCain	Schneider	Young (MO)
McCloskey	Schroeder	Zschau
McCurdy	Schuetz	

NOT VOTING—20

Ackerman	Huckaby	Synar
Breaux	Markey	Weaver
Burton (CA)	Mikulski	Whitten
Campbell	Porter	Williams
Chappie	Rudd	Wilson
Duncan	Sikorski	Young (AK)
Grotberg	Stratton	

□ 1615

Messrs. MOLINARI, THOMAS of California, LAGOMARSINO, TRAFICANT, LEWIS of Florida, STRANG, and DARDEN changed their votes from "aye" to "no."

Mr. BOULTER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, amendment No. 30 is in order.

AMENDMENT OFFERED BY MR. LUNGREN

Mr. LUNGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUNGREN: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneous Provisions

SEC. 671. REFORM OF FOURTH AMENDMENT EXCLUSIONARY RULE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3508. Limitation of the fourth amendment exclusionary rule

"Except as specifically provided by Act of Congress, evidence which is obtained as a result of a search or seizure and which is otherwise admissible shall not be excluded in a proceeding in a court of the United States if the search or seizure was undertaken in a reasonable, good faith belief that it was in conformity with the fourth amendment to the Constitution of the United States. A showing that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of such a reasonable good faith belief, unless the warrant was obtained through intentional and material misrepresentation."

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following item:

"3508. Limitation of the fourth amendment exclusionary rule."

Mr. LUNGREN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. LUNGREN] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey will be recognized for 15 minutes to speak in opposition to the amendment.

The Chair recognizes the gentleman from California [Mr. LUNGREN].

□ 1625

Mr. LUNGREN. Mr. Chairman, I yield myself such time as I may consume, but not to exceed 5 minutes.

Mr. Chairman, let me say to my colleagues that this is one of the so-called controversial amendments, one of the so-called controversial amendments that we will have to vote on today. I happen to think that it goes to the very guts of the issue. It goes to the

question of whether or not we are going to be serious about our efforts to deal with the drug problem in this country. It goes to the question of the so-called exclusionary rule.

Mr. Chairman, the exclusionary rule goes to an evidentiary ruling which basically says that in criminal cases, although you have evidence which is probative and which goes to the question which is relevant to the question of the guilt or innocence of an individual, that evidence will not be allowed in the courtroom to be considered by the jury because one of the police officers in gathering that evidence did not follow the prescriptions as set down by the Supreme Court. In other words, because of an error by the police officer we will not allow the evidence to be presented.

Judge Cardozo said what it amounts to is that the criminal is to go free because the constable has blundered. It is very difficult to try to explain to someone who has been a victim of a crime and it is very difficult to explain to the public that because a police officer has made an error in gathering the evidence, he is not punished but society is punished and the individual who is the victim of the crime is punished by virtue of the fact that the person who otherwise would have been proven guilty is allowed to go free.

There has been movement on this issue over the past number of years. The Supreme Court, recognizing that it had gone too far and recognizing that some of the rulings do not, in fact, create a deterrence for improper police action, has decided that a good-faith exception ought to be made in a warrant case.

Where a police officer makes an error in good faith in bringing a warrant before a judicial officer or in executing that warrant, the Supreme Court has said that "In those cases, if it is a good-faith error, it serves no deterrent purpose for us to deny that evidence to go forward." They did not address the question of a good-faith exception in a case where a warrant is not required or thought not to be required.

This amendment says that an exception to the exclusionary rule on the Federal level will lie where there is a good-faith action by the police officer involved.

Now, someone may ask, if that goes to the question of all crimes, why would we have it in this bill? The only substantive study of which I am aware is a study of California cases done in the last decade in which they discovered that 30 percent of all felony drug cases were not brought for prosecution, not because they did not believe the person was guilty, not because they did not believe they had evidence, but because in some way the evidence was tainted. Thirty percent of all the felony drug cases in the larg-

est State in the Union were tossed out, not even prosecuted, because of the problem of the exclusionary rule and other problems.

We do not in this amendment in any way allow an officer who intentionally creates a ruse, who intentionally violates the constitutional protections, to go forward and have the evidence brought forward. This amendment only says that when a police officer, following what he thinks is the law and based on his training—and there is an objective as a subjective standard involved—makes an error, we will not penalize the public and we will not penalize the victim for his doing so.

Let me just give an example of how this plays in real life. In hundreds of appellate court decisions we have sometimes confusing and contradictory information and instructions given to the police. Precisely that type of problem arose in *Robbins versus California* in 1981. In *Robbins* the court excluded evidence of a substantial quantity of marijuana found in a car trunk in a decision that was largely based on two cases: The *Chadwick* case of 1979 and *Arkansas versus Sanders* in 1979, neither one of which had been decided at the time the officers were making the arrest. So they went back and they said to the officers, "Even though you followed the law as you thought it to be at that time, we had some decisions under consideration which we later made, and because you didn't follow what we later decided, the evidence of the substantial amount of marijuana cannot be brought forward."

The *Robbins* decision overruled previous decisions of the trial and appellate courts in California that the search was valid. In other words, they were following what they thought the law to be. Even if the police officers read the law books and followed the law, they were found later to be in error.

When finally decided, 14 judges had reviewed the search, 7 had found it valid and 7 had found it invalid. To add to the confusion, less than 3 months after they had decided the *Robbins* case, the Supreme Court granted certiorari in the case of *United States versus Ross* and asked both sides to address the question as to whether *Robbins* should be reconsidered.

So you are a police officer out there, you are trying to follow the law, and you have found somebody who is dirty, you have found somebody with a large amount of drugs. You have followed the law as you thought it to be and as the courts would tell you it is at that time, and despite that fact, the evidence is thrown out and the drug-pusher and the drug trafficker goes free.

The CHAIRMAN. The 5 minutes of the gentleman from California [Mr. LUNGREN] has expired.

Mr. LUNGREN. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, this amendment merely says that when the officer in good faith has followed what he thought he should do—and that is based not only on being a reasonable man but also having a reasonable standard of training—that society ought not be punished and the victim ought not to be punished.

I would say that this is a gut check amendment. If you are serious about doing something about drugs, this covers almost 30 percent of the serious drug cases, according to the only study done. If you are serious about getting the evidence before the jury in a case where the police officer would not be deterred by the exclusionary rule because he did not intentionally violate the rules and prescriptions of the court, I would think that you would vote "aye". I would think that you would seriously think that this is one of the things we have to do, to make a fundamental change in the court system. We can make all the changes in the police and the investigators, and so forth, but if we do not make fundamental changes in the court system, it is all for naught.

Mr. Chairman, I ask for an "aye" vote on this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, just at the outset I rise to inform my colleagues that I support a good faith exception to the exclusionary rule. However, the amendment, as proposed by our colleague, the gentleman from California [Mr. LUNGREN], would suggest a subjective standard, not the objective standard which I think is important as a part of any good faith exception to the exclusionary rule.

In fact, when Stephen Trott, the Assistant Attorney General, was before the other body back in October, the Attorney General in fact recommended that this particular provision be modified so that in fact we would use the standard set forth in the *United States versus Leon*, the 1984 case which used the standard, "reasonable reliance on the part of the police officer."

I do not think it would make sense for us to permit a police officer just to say that he acted in good faith and take that as the standard in fact in deciding whether to hold in evidence that which might have been illegally seized.

So, Mr. Chairman, while I support the concept of a good faith exception, I think that this particular amend-

ment is fatally flawed. I worry over the standard that is used because it does not use the standard the Justice Department recommends and as set forth by the Supreme Court in its decision in *United States versus Leon*.

Mr. CHAIRMAN. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Chairman, today we have been fighting a war against drugs, and now it seems to me that the attack is on the Constitution of the United States. The gentleman from California [Mr. LUNGREN], who offered the amendment, cited the fact that there is an exclusionary rule, that this was adopted by the Supreme Court, and that it recognized that this was the way to protect the rights of individuals under the fourth amendment.

The gentleman from California [Mr. LUNGREN], who offered this amendment, incidentally cited a figure of 30 percent, which I have questioned since looking at an American Bar Foundation News Report of March 16, 1984.

That report states that a study it commissioned found that "the exclusionary rule only rarely causes the loss of arrests for violent crime." It further stated that the study also shows that "the same statewide California data used by NIJ indicate that prosecutors only drop 2.4 percent of felony drug arrests because of illegal searches, not 30 percent, but NIJ failed to report the lower figure." The report concludes that the study indicates that "NIJ's 30-percent figure, which is based on an examination of less than 300 cases from Los Angeles only, is a result of faulty research methods."

□ 1635

Now, I do not think we want to adopt an amendment on figures that are based on faulty research methods, nor do I think we want cavalierly to amend the Constitution on the floor of the House without going through the normal legislative process.

The fourth amendment provides that "the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated * * *." The Supreme Court, in 1914, adopted the exclusionary rule for Federal criminal trials and required Federal courts to exclude any evidence obtained in violation of the fourth amendment. [*Weeks v. U.S.*, 232 U.S. 383]. The Supreme Court later extended the exclusionary rule to State courts in *Mapp v. Ohio* [367 U.S. 343 (1961)]. The proposed amendment, which would provide a "good faith" exception to the exclusionary rule, is unconstitutional and unwise.

The Constitution, as the Supreme Court cases indicate, requires exclusion of evidence seized in violation of the fourth amendment. A constitutional requirement can be modified only by amending the Constitution, not by amending a statute.

Changing the exclusionary rule, moreover, would be unwise. The rule has had a beneficial impact upon law enforcement, improving law enforcement methods and techniques, as law enforcement groups have testified. This benefit has been obtained without greatly affecting the disposition of cases. The huge percentage of Federal criminal cases settled by guilty pleas and convictions is proof positive that the exclusionary rule has not unduly hampered Federal law enforcement agencies or Federal courts.

It is sometimes charged that the rule lets criminals free on "Technicalities." This allegation is not borne out by the data we have available. A survey by the Institute for Law and Social Research, for example, found that fewer than 1 percent of all arrests were "refused by the prosecutor with an indication that the police failed to protect the arrestee's right to due process."

The American Bar Association has carefully studied the exclusionary rule and the desirability of modifying it. It has concluded that the rule should not be changed. As its spokesman has stated, "congressional changes in the rule will undercut law enforcement professionalism, engender decades of litigation over various new tests, and result in very few additional criminals ending up behind bars."

People who attack the exclusionary rule are really attacking the Constitution. As Senator Robert Wagner pointed out in 1938 at a New York State constitutional convention:

All the arguments [that the exclusionary rule will handicap law enforcement] seem to me to be properly directed not against the exclusionary rule but against the substantive guarantee itself. * * * It is the law of search and seizure, not the sanction, which imposes limits on the operation of the police. If the rule is obeyed as it should be, and as we declare it should be, there will be no illegally obtained evidence to be excluded by the operation of the sanction.

Furthermore, I would like to state that this is not the appropriate vehicle to modify the exclusionary rule. The purpose of this bill is limited to enhancing our antidrug efforts. I would point out to the Members that this amendment modifies the exclusionary rule with respect to all criminal cases.

I believe that it is unwise for the House to make such a major change in our criminal law procedures which will have far-reaching impact in the context of a bill whose legislative purposes are limited to drug-related offenses.

In summary, modification of the exclusionary rule is bad law, and is being

attempted here in the wrong situation. I urge the defeat of the amendment.

Mr. HUGHES. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Chairman, I thank my colleague, the gentleman from New Jersey, for yielding this time. I perhaps will not use the 4 minutes, but I do have to express my concern.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California [Mr. LUNGREN] to create an alleged good faith exception to the exclusionary rule. What is at stake in this amendment is whether we, as people, continue to believe in the fundamental protections of the Bill of Rights. As Justice Brennan put it:

* * * the task of combatting crime and convicting the guilty in every era seem of such critical and pressing concern that we may be lured by the temptations of expediency into forsaking our commitment to protecting individual privacy and liberty.

It was for those very reasons that the Framers crafted the antimajoritarian restrictions on Government conduct found in the Bill of Rights. One of the bulwarks of our freedoms is the right to be free from unreasonable searches and seizures. Thus, fourth amendment protection has since at least 1914 meant that illegally seized evidence could not be admitted to trial in Federal court. This exclusion of relevant evidence serves several central purposes. Most importantly, it bars the independent judiciary from becoming mere conduits to the admission of improperly obtained evidence. Second, the exclusionary rule provides an incentive for careful review of warrants because of the adverse consequences of allowing an improper warrant. Third, it provides an incentive for law enforcement officers to conform their conduct to the Constitution. Finally, the most effective method of protecting the innocent against abusive searches is to have an exclusionary rule.

The amendment by Mr. LUNGREN has not been the subject of any hearing in the House this Congress. But if such hearing were held, Members would know that this amendment is opposed by the American Bar Association and the Judicial Conference of the United States. Members would also have learned that the costs of an exclusionary rule are relatively small in comparison to the benefits. The best evidence is that:

The cumulative loss—nonprosecution or nonconviction—resulting from illegal searches is between 0.6 to 2.33 percent of all felony arrests.

Less than 1 percent of individuals arrested for felonies are released because of illegal searches and seizures at the preliminary hearing or after trial.

If hearings had been held on this amendment, Members would have learned that this amendment does not conform to the Supreme Court's most recent decision on the fourth amendment. The amendment goes beyond the Leon case by extending the existing good faith exception to cases which do not involve search warrants. Moreover, the amendment does not incorporate limitations of the good faith exception which the Supreme Court has said are required by the Constitution.

Thus, Members should know that by voting on this amendment they will be facing conflicting Supreme Court decision of a constitutional magnitude, the opposition of the two most respected legal organizations in the country and a weak case for change.

Let me close with the warning of Justice Brennan:

When the public, as it quite properly has done in the past as well as in the present, demands that those in government increase their efforts to combat crime, it is all too easy for those government officials to seek expedient solutions. In contrast to such costly and difficult measures as building more prisons, improving law enforcement methods, or hiring more prosecutors and judges to relieve the overburdened court systems in the country's metropolitan areas, the relaxation of Fourth Amendment standards seems a tempting, costless means of meeting the public's demand for better law enforcement. In the long run, however, we as a society pay a heavy price for such expediency, because as Justice Jackson observed, the rights guaranteed in the Fourth Amendment "are not mere second-class rights but belong in the catalog of indispensable freedoms." Once lost, such rights are difficult to recover.

As Justice Stewart has observed:

[T]he exclusionary rule is not designed to serve a specific deterrence function; that is, it is not designed to punish the particular police officer for violating a person's fourth amendment rights. Instead, the rule is designed to produce [systematic deterrence]; the exclusionary rule is intended to create an incentive for law enforcement officials to establish procedures by which police officers are trained to comply with the fourth amendment because the purpose of the criminal justice system—bringing criminals to justice—can be achieved only when evidence of guilt may be used against defendants.

Uncontrolled search and seizure is one of the first and more effective weapons in the arsenal of every arbitrary government.

Mr. LUNGREN. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, the criminal lawyer's best friend is the motion to suppress provided by the exclusionary rule. If they know that motion, they are going to win a lot of their cases. The purpose of the exclusionary rule is to deter policemen from overreaching, from making unreasonable searches and seizures.

Now, it is misconceived because the only one that gets punished by suppressing this evidence is the prosecu-

tor, society, the public at large. The big winner is the defendant, the accused, and the policeman leaves the court unchastened to go and do whatever he does another day.

Now, if the warrantless search and seizure was done in good faith, yes, that is a subjective test, but is not probable cause subjective? Is not "beyond a reasonable doubt" subjective? Somebody has to make the judgment that, yes, it measures up to good faith, or no, it does not.

Now, we assume that our judges are capable of determining whether good faith has been exercised in this search and seizure. The exclusionary rule is waived now when a warrant exists and a good faith effort has been made. This amendment simply has the same exemption apply without the warrant.

Now, if you really care about hitting drug trafficking where it hurts, never mind conferences, never mind scattering money as though it has bacteria on it. Do something substantial. Take that exclusionary rule, the criminal lawyer's best friend, and make it inapplicable where a good faith search and seizure has been made.

We are not simply to inquire, did the constable blunder? We are to find out if this accused is guilty or innocent. The evidence should be adduced to make that determination. If you want to deter policemen from making unreasonable searches, then fire them, suspend them, but do not frustrate justice and do not permit drugs to proliferate and to be sold protected by the misconceived exclusionary rule.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I only have 3 minutes, let me say to the gentleman from Ohio [Mr. SEIBERLING].

I would suggest doing something of substance in this omnibus blockbuster of a costly bill which we are rushing to completion with very few hearings.

Now I will yield to the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Well, Mr. Chairman, I wonder how many other constitutional protections the gentleman is prepared to sacrifice?

Mr. HYDE. None. I would sacrifice none. Unreasonable searches and seizures are wrong and should be punished and I say punish the miscreant, but do not let the guilty go free. Where is that in the Constitution?

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, these protections protect all of us, not just the guilty, but the innocent as well. That is the whole point.

Mr. HYDE. Yes, the victims of this dope trafficking, let us do something about them. I want to protect the public.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, the crux of the matter is that all of us here believe that if you misbehave, if you violate the law, you should be caught and punished; but the gentleman from Illinois [Mr. HYDE] does not want the policeman's misconduct held against him. That is all we are talking about. The problem is that we are going to encourage the police to do wrong if we allow them to use illegal evidence.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. Yes, of course, I always yield to the gentleman from Illinois, with great care, though.

Mr. HYDE. Mr. Chairman, I want that policeman punished, but by suspending him or firing him or even jailing him for making an illegal search and seizure, but I do not want the consequence of his act to be visited on the community land society.

It is the remedy that I question, not that the wrong has been done, and where good faith has been expended I would make that different from bad faith, and I think the gentleman would, too.

Mr. EDWARDS of California. No, Mr. Chairman, I disagree very strongly. I do not think the way to correct the policeman is just to fire him. The way to stop him from collecting illegal evidence is not to allow the evidence to be used in court.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. HUGHES. Mr. Chairman, I yield an additional 30 seconds to the gentleman.

Mr. EDWARDS of California. So I just do not think, Mr. Chairman, that we want to travel down this path. As has already been pointed out by previous speakers, you are not talking about very many cases that the police or the DEA would lose. It is somewhere around 1 percent of felony cases in the United States that are lost because of illegal searches.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, I would like to cite for the Record at this point—

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I was interested in the opening statement of the gentleman from California [Mr. LUNGREN] which carefully excluded any reference to the fourth amendment of the Constitution. Why? Well, the reason is very simple, be-

cause the exclusionary rule was brought in there, I say to the gentleman from California [Mr. LUNGREN] because you cannot have a fourth amendment to the Constitution without the exclusionary rule written, so sayeth the Supreme Court of the United States.

Now, the reason that they said that and the reason you have to allow the case to go off, not jail the policeman, I say to the gentleman from Illinois [Mr. HYDE], is because the law requires that it be absolute. You cannot have good faith about your knowledge of the law. You can have good faith in the application of a fact, probable cause. You cannot have good faith in applying the law.

Mr. LUNGREN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I thank my colleague for yielding.

I intend to support the amendment of the gentleman from California. There is no question but that the application of the exclusionary rule has led to some absurd and bizarre results in drug cases, but I think what is needed here is a definition of the term good faith in a warrantless situation.

The gentleman from New Jersey, the chairman of the subcommittee, has raised the issue of subjective versus objective standards. I would like to address a couple questions to the sponsor of this amendment.

How does the gentleman intend that the courts interpret good faith? What are the standards that would define good faith?

Mr. LUNGREN. It is my intention that the good faith that is intended in this particular amendment would be the standard that was established by the Supreme Court in the United States versus Leon case. That is where they establish a good faith standard in a warrant case.

Mr. FISH. Second, who has the burden of proof to demonstrate good faith under the language of the gentleman's amendment? Is it the prosecution or the defense?

Mr. LUNGREN. Once the objection has been raised by the defense—that is, the defense would first have to raise the objection—both the burden of going forward and the burden of proof would shift to the prosecution to show that in fact they met the standard of good faith.

Mr. FISH. I thank the gentleman.

Finally, what about warrantless searches? Is the test what the individual police officer's subjective view of the fourth amendment requirement is?

Mr. LUNGREN. No, it would not. It would be what the court contemplated in the Leon case.

I would also make reference to a previous case from the fifth circuit, the Williams case, in which it was said:

We emphasize that the belief, in addition

to being held in subjective good faith, must be grounded in an objective reasonableness. It must therefore be based upon articulable premises sufficient to cause a reasonable and a reasonably trained officer to believe he was acting lawfully.

In other words, there is a subjective element to it, but it is grounded in an objective reasonableness. I think that expresses what the fifth circuit had in mind and it also expresses what the Supreme Court had in mind.

Mr. FISH. Mr. Chairman, I thank the gentleman.

□ 1650

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, we do have some exceptions to the exclusionary rule, but in my judgment the Lungren amendment is a gaping hole in the fourth amendment.

This amendment on the exclusionary rule would allow illegally seized evidence to be used in a trial whenever police could argue subjectively that they acted in good faith.

The Supreme Court has held that a good faith defense only applies when police officers rely on a judicial warrant. This amendment would apply a good faith exception even when no warrant is obtained and in all cases—not simply those related to drug offenses. We are amending the entire criminal code here with respect to all Federal cases, not just drug cases, opening a door to illegal searches and seizures.

Mr. Chairman, I urge Members to vote down the Lungren amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, this is a very, very bad amendment. It incorporates in our Federal criminal law the notion that ignorance of the law is an excuse. A "good faith" exception, notwithstanding the previous colloquy on this floor, is not defined by any standard other than the subjective good faith belief of the police officer. He is now rewarded for unconstitutional searches to the extent to which he testifies he does not know that the search was illegal.

The court did not adopt the exclusionary rule because it loved to exclude evidence; it adopted it because there was no other effective and meaningful deterrent and remedy to deal with the problem of protecting our fundamental constitutional rights.

At the very least one should expect that the authors of this amendment would set up a proposal such as the gentleman from Illinois talked about that involves criminal penalties and discipline for violations of the fourth amendment. There is nothing in the amendment to protect the citizens in their fundamental constitutional rights. I urge this body to reject it.

Mr. HUGHES. Mr. Chairman, may I inquire as to how much time I have remaining?

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] has 3½ minutes remaining and the gentleman from California [Mr. LUNGREN] has 4 minutes remaining.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I hope that this body will be strong in defense of the fourth amendment and vote down this amendment.

As has been so articulately stated by the gentleman from Kansas, this is not a narrow amendment, this is the entire Federal Criminal Code that is being affected. This is not just something about drugs. It is going to have a perverse effect. We are going to say to policemen first that they should not worry about the quality of their information to enforce the law. Is it a substitute for this that they could be disciplined? No, on the contrary, they will be too cautious for fear of discipline to themselves, and they will enforce less of the law, not more.

The fourth amendment protects us all, the innocent most of all, and we should not create the improper incentive to violate the law by anyone, most of all the police.

Vote down this amendment and preserve the very best law enforcement under this drug law, and also the entire Criminal Code.

Mr. LUNGREN. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman from California [Mr. LUNGREN] and compliment him for his most able amendment.

You know, to listen to some of the argument against this amendment, you would think that we were asking to amend the Constitution. Well, my colleagues know as well as I know that we are not amending the Constitution here. We are simply putting a minor adjustment in the exclusionary law that grew up some 125 to 150 years after the ratification of the Constitution and the fourth amendment.

What we are doing is just good, common sense. What we are doing today, in fact, is cleaning out the attic of the Committee on the Judiciary, where this particular amendment has lingered in the way of a bill without even being allowed a hearing or a markup for so many years time after time, as we are going to have a chance to do on other legislation today.

This different from other amendments that have been offered today, because this one does not carry a big price tag. This one is going to cost the

taxpayers absolutely nothing. This is something that the voters are going to be screaming for and have been screaming for. They are sick and tired of the criminal walking out of the courtroom unpunished.

I urge Members to vote "yes" on this amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I rise in opposition to this amendment. It looks like, as the gentleman from Florida has indicated, this is a Judiciary Committee shootout, that anything that they could not get in the Judiciary Committee, then they might as well come along with the drug bill and have some death penalty, exclusionary rule, anything else that they want to bring to the floor.

Basically what we are talking about is illegal searches and seizures. Now the gentleman says that he wants to make an exception to what is already illegal. But the gentleman from Illinois had claimed, "Don't penalize the policeman." A cop wants to make arrests; a cop wants to make convictions. If you provide the incentives, the fruit from an illegal search and seizure, and then ask the police officer did he do it in good faith, I am telling you that you will find a very difficult case in which to throw out any of the evidence, no matter how tainted.

I wish Members could put themselves in this position. Here comes a policeman. He has good faith that he wants to put you in jail, but he has violated every protection that you have. I submit that Members ought to oppose this amendment.

Mr. LUNGREN. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. McCOLLUM], the distinguished ranking member of the Subcommittee on Crime.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, sometimes in this debate when we talk about the Constitution and things like searches and seizures and the exclusionary rule, we forget some fundamentals. One of the fundamentals is that the exclusionary rule is not a part of the fourth amendment. It is not a part of the Constitution. It is a procedural device for enforcement adopted by the Supreme Court in the century by case law and case decision, because they were not happy with the enforcement devices that existed.

It is a Court-made rule of procedure that I think, and I think that the majority of the Members of this body are going to decide today, should be a vested right in Congress to decide and determine, and that is what we would be doing here today. We would be saying—and I am strongly in support of the amendment of Mr. LUNGREN—

we would be saying that with respect to those searches and seizures that a police officer makes without a warrant, in good faith, that he is going to be able to be deemed to be right in that judgment at least to the extent of admitting that stuff into evidence, unless there is some burden that is not met by the prosecution later.

Mr. Chairman, I strongly urge the adoption of this amendment to put the exclusionary rule away on this issue.

Mr. HUGHES. Mr. Chairman, I yield 30 seconds to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Chairman, I oppose the exclusionary rule, and I oppose this amendment, because it is not balanced. The way to get rid of the exclusionary rule is to provide some other remedy to protect the people without forbidding valuable evidence in trials.

The way to do that is cited in *Bevins v. Six Unnamed Federal Agents*, 403 U.S. 388, a 1971 case, namely to waive sovereign immunity so that the offended party can sue. If that were added to this amendment, I would vote for it gladly.

Mr. HUGHES. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I just want to say, if I may have the attention of the gentleman from California [Mr. LUNGREN], as I understand it, his intent was to create a standard that would be objectively reasonable, the Leon standard. And yet I do not read the gentleman's amendment that way. The gentleman's amendment is quite vague. I know that it was probably crafted as part of an amendment in the other body, but it seems to me that the standard that we ought to be using is just that. It can be our intent that it be interpreted a certain way, but why not in fact spell it out just that way.

I differ with many of my colleagues on the subject of the exclusionary rule. I support a "good faith" exception, but it has to be an objective standard.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. Will the gentleman give me some time so that we can discuss that issue?

I yield to the gentleman from California.

Mr. LUNGREN. I said that I would do that in conference: If that is the gentleman's intent, I would support him in making that change. But with the rule, I cannot make any change.

□ 1700

Mr. HUGHES. Mr. Chairman, would the gentleman agree that we should have an objective standard in the language, not really in what is our intent?

Mr. LUNGREN. It is my intent to have what the Leon case has, and if it is required to make the gentleman

happy, it can be articulated there. I would be happy to do that and I would recede to that in a conference.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

Mr. LUNGREN. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. LUNGREN] is recognized for 2 minutes.

Mr. LUNGREN. Mr. Chairman, first of all, I might say that this is not such a unique experience we are having here. Other State courts have been involved in that. In fact, one of the distinguished members of our Subcommittee on Crime, the gentleman from Florida [Mr. SMITH], is the author of a similar piece of legislation in the Florida Legislature.

They have not had a rash of abuse of police activity in Florida since they got that through, but they have added an additional tool to strike against major crime, particularly drug trafficking, in their home State. We should do at least as much here on the floor of the House.

I am not obliterating the exclusionary rule. What we are doing here is adding a good-faith exception, and let us just analyze it for a moment.

If what you are trying to do is deter police conduct that is inappropriate, then you could have the exclusionary rule where that is the intention of the police officer when he has made a good-faith mistake because he may have been following what the law has been thus far, what has been printed. If he stays up all night and reads the latest law articles and law review articles and decisions and follows that, to have evidence thrown out because the court says later on, "We had not anticipated that; we are going to make a new ruling," does not make sense, does not make common sense and tends to undercut the credibility of the judicial system.

One of the things we ought to remember is, yes, we are here to make sure we do not make great errors. We are here to make sure we protect the public and we are here to protect constitutional rights.

I am not saying we ought not to do that, but we ought to keep another thing in mind. If we continue to turn a blind eye to changes that the American people think are reasonable, are common sense, and, in fact, are, then we tend to give more and more disrespect to the judicial system itself.

I will readily admit the ACLU does not support this. I will readily admit the police officers do, the attorneys general do, the Justice Department does, and maybe that is weighted toward the prosecution. I will admit it. I have got a bias in this war on crime; it is toward the prosecution.

All I am asking for is a small change that will make a very effective change in terms of our war on drug dealers.

The CHAIRMAN. All time has expired on the amendment.

The question is on the amendment offered by the gentleman from California [Mr. LUNGREN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUGHES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 259, noes 153, not voting 19, as follows:

[Roll No. 373]

AYES—259

Alexander	Evans (IA)	Mack
Anderson	Fascell	MacKay
Andrews	Fawell	Madigan
Anthony	Fiedler	Manton
Applegate	Fields	Mariennee
Archer	Fish	Martin (IL)
Armey	Flippo	Martin (NY)
Badham	Fowler	Martinez
Barnard	Franklin	Mazzoli
Bartlett	Frenzel	McCaIn
Barton	Frost	McCandless
Bateman	Fuqua	McCollum
Bennett	Gallo	McCurdy
Bentley	Gaydos	McEwen
Bereuter	Gekas	McGrath
Bevill	Gibbons	McKernan
Billakis	Gilman	McMillan
Bliley	Gingrich	Meyers
Boehlert	Goodling	Mica
Boner (TN)	Gradison	Michel
Borski	Gregg	Mikulski
Boulter	Guarini	Miller (OH)
Broomfield	Gunderson	Miller (WA)
Brown (CO)	Hall, Ralph	Molinari
Bryant	Hammerschmidt	Mollohan
Burton (IN)	Hansen	Monson
Byron	Hatcher	Montgomery
Callahan	Hefner	Moore
Carney	Hendon	Moorhead
Carper	Henry	Morrison (WA)
Carr	Hiler	Myers
Chandler	Hillis	Natcher
Chapman	Holt	Nelson
Chappell	Hopkins	Nichols
Clinger	Hubbard	Nielson
Coats	Hughes	Oxley
Cobey	Hunter	Packard
Coble	Hutto	Parris
Coelho	Hyde	Pashayan
Coleman (MO)	Ireland	Penny
Coleman (TX)	Jenkins	Petri
Combest	Johnson	Pickle
Coughlin	Jones (NC)	Porter
Courter	Jones (OK)	Pursell
Craig	Jones (TN)	Quillen
Crane	Kanjorski	Rahall
Daniel	Kasich	Ray
Dannemeyer	Kemp	Regula
Darden	Kindness	Reid
Daschle	Kolbe	Richardson
Daub	Kolter	Rinaldo
Davis	Kramer	Ritter
de la Garza	Lagomarsino	Roberts
DeLay	Lantos	Robinson
DeWine	Latta	Roe
Dickinson	Leath (TX)	Roemer
DioGuardi	Lent	Rogers
Dorgan (ND)	Lewis (CA)	Rose
Dornan (CA)	Lewis (FL)	Rostenkowski
Dowdy	Lightfoot	Roth
Dreier	Lipinski	Roukema
Duncan	Livingston	Rowland (CT)
Durbin	Lloyd	Rowland (GA)
Dyson	Loeffler	Russo
Eckert (NY)	Lott	Saxton
Edwards (OK)	Lowery (CA)	Schaefer
Emerson	Lujan	Schuetz
English	Luken	Sensenbrenner
Erdreich	Lungren	Shaw

Shelby
Shumway
Shuster
Siljander
Sisisky
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
(OR)
Smith, Robert
(NH)
Smith, Robert
(OR)
Snowe

Snyder
Solomon
Spence
Stallings
Stangeland
Stenholm
Strang
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tausin
Taylor
Thomas (CA)
Thomas (GA)
Traficant
Valentine

Vander Jagt
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Whitehurst
Whitley
Whittaker
Wolf
Wortley
Wylie
Yatron
Young (FL)
Young (MO)
Zschau

NOES—153

Akaka
Annunzio
Aspin
Atkins
AuCoin
Barnes
Bates
Bedell
Beilenson
Berman
Biaggi
Boggs
Boland
Bonior (MI)
Bonker
Bosco
Boxer
Brooks
Brown (CA)
Bruce
Bustamante
Clay
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Dwyer
Dymally
Early
Eckart (OH)
Edgar
Edwards (CA)
Evans (IL)
Fazio
Feighan
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Garcia

NOT VOTING—19

Ackerman
Boucher
Breau
Burton (CA)
Campbell
Chappie
Cheney

Obey
Olin
Ortiz
Owens
Panetta
Pease
Pepper
Perkins
Price
Rangel
Ridge
Rodino
Roybal
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sharp
Sikorski
Slattery
Solarz
Spratt
St Germain
Staggers
Stark
Stokes
Studds
Swift
Torres
Torricelli
Towns
Traxler
Udall
Vento
Visclosky
Waldon
Waxman
Weaver
Weiss
Wheat
Williams
Wilson
Wirth
Wise
Wolpe
Wright
Wyden
Yates

□ 1720

Mr. TORRES and Mr. ANNUNZIO changed their votes from "aye" to "no."

Mr. TRAFICANT and Mr. YOUNG of Missouri changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. CHENEY. Mr. Chairman, I was unavoidably detained in a meeting in the other body a few minutes ago and missed rollcall No. 373. Had I been present, I would have voted "aye."

The CHAIRMAN. Under the rule, the gentleman from California [Mr. LUNGREN] will be recognized to offer amendment No. 31.

AMENDMENT OFFERED BY MR. LUNGREN

Mr. LUNGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUNGREN: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneous Provisions

SEC. 671. FORFEITURE OF SUBSTITUTE PROPERTY.

(a) AMENDMENT TO SECTION 1963 OF TITLE 18, UNITED STATES CODE.—Section 1963 of title 18, United States Code, is amended by inserting after subsection (c) the following new subsection:

"(d) If, because of an act or omission of the defendant, property subject to forfeiture under subsection (a) of this section—

"(1) is removed from the jurisdiction of the court or is otherwise unavailable for forfeiture;

"(2) is diminished in value; or

"(3) cannot reasonably be separated from property that is not subject to forfeiture;

the court shall order the forfeiture of such other property of the defendant as may be necessary to recover the value lost to the United States because of the act or omission of the defendant."

(b) AMENDMENT TO SECTION 413 OF THE CONTROLLED SUBSTANCES ACT.—Section 413 of the Controlled Substances Act is amended—

(1) by redesignating subsections (d) through (o) as subsections (e) through (p), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"Substitute Property

"(d) If, because of an act or omission of the defendant, property subject to forfeiture under subsection (a)—

"(1) is removed from the jurisdiction of the court or is otherwise unavailable for forfeiture;

"(2) is diminished in value; or

"(3) cannot reasonably be separated from property that is not subject to forfeiture;

the court shall order the forfeiture of such other property of the defendant as may be necessary to recover the value lost to the United States because of the act or omission of the defendant."

Mr. LUNGREN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Under the rule the gentleman from California [Mr. LUNGREN] will be recognized for 5 minutes and the gentleman from New Jersey [Mr. HUGHES] will be recog-

nized for 5 minutes in opposition to the amendment.

Mr. LUNGREN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, a little over a year ago, one of my staff members was at home watching television and watching that rather popular show called "Miami Vice."

In that show there was a scene in which Don Johnson was talking rather heatedly to a suspect in which he said, "Look, haven't you heard of the Omnibus Crime Control Act of 1948?" The defendant looked at him rather quizzically.

He then said, "Under that we can take away your house, we can take away your car, we can take away your boat, we can take away your cash in the bank. So you had better cooperate with us." In fact, that is one of what I consider to be the major strides we made in criminal prosecutions as a result of the adoption of that act.

We are striking at major drug dealers where it hurts; not only are we putting them in prison but we are attaching their assets and after the conclusion of the trial there is a presumption that their assets flow from their illegal activity.

What does that mean? That means that unless they can overcome that presumption, we take away their car, we take away their boat, we take away their house, we take away their funds, and when they get out of prison they do not have the assets with which to get involved in their criminal enterprises again.

The question before us now is whether or not we should have the ability to go after substitute assets. That is, if they have been successful in hiding their assets or transferring their assets, could we not go after a similar amount of other assets they might have in which they have hidden their previous ones? Why do we do this? Because we are dealing with tough, smart people who try to stay one step ahead of the law and try to hide their assets whenever they can.

Some will say we do not need this. The Justice Department has asked for it. In fact it was part of the Comprehensive Crime Control Act when it left this House several years ago and similarly was passed in the other body. Somehow it got dropped out in conference.

This is another arrow in the quiver of law enforcement against those who are dealing drugs to our children and throughout our society.

Some may say there is a constitutional problem with that.

I have had the CRS look at that through their legal staff, we have looked at it; we can find no constitutional problem with it whatsoever. It adds an additional penalty so that we can stay one step ahead of the bad guys who are out there. They are

smart, they know what they are doing, and when they get assets they try to hide them. This amendment would say that we can go after those assets they have substituted for the assets that they got as a result of their criminal enterprise.

Why should we allow them to keep these assets merely because they were smart enough to hire some good attorneys and some good accountants? Why should we allow them to keep a boat or a house or a new bank account merely because they shifted the source of those assets?

This is another effort for us to get tough on drugs. It does not cost us anything. It costs the guys who are out there doing something. I ask you to support the amendment.

Mr. HUGHES. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I am very proud of the forfeiture bill. As a matter of fact, I was the prime sponsor of the bill. It was written in both the 97th and 98th Congresses; it has been one of the dynamite tools we provided for the law enforcement community, and I am delighted to say that it has reached every expectation that we had for it. This amendment, however, is both unnecessary and, in my judgment, undesirable. We considered it, as a matter of fact, when we first developed the bill in 1981 and rejected it as an approach for the reasons I am going to tell you. It is unnecessary because when it was first offered as a method to get at the assets of criminals who hide or dissipate their ill-gotten gains, we debated it and found out that basically it did not get at what we wanted. The theory behind the amendment is that if a criminal has hidden the proceeds of his crime, the courts shall order the forfeiture of legally held assets of the same value. The flaw in the approach before us is that the criminal who hides illegally obtained assets is going to hide legal ones also. For example, we cannot effectively seize a Swiss bank account or a Bahamian bank account because it is beyond the reach of our authorities.

The solution we developed in response to that dilemma and which we enacted 2 years ago strips the ill-gotten gains from criminals through greatly increased fines, improved stronger fine collection laws, fines unlimited by the ill-gotten gains, which can be twice the amount of those gains. We also created a presumption that all assets that are created or in fact acquired during the time of the criminal enterprise are presumed to come from the criminal enterprise. And we require the defendant to come forward to establish that those gains were not gotten from the criminal enterprise, just like in net worth cases, net worth cases with the IRS.

We made the defendant come forward and show where those assets came from.

And we did something else: We said that if he is doing \$2 million a year for 5 years, that is the size of the criminal enterprise, that a court can impose a fine of up to \$20 million on the defendant and say to the defendant that for each of the counts, 5 years in Federal prison, 5 years probation to be served if the defendant does not come forward and pay the fine.

That is how we reached the Swiss bank accounts.

The response of the Justice Department to us was,

Great idea, Bill, wonderful idea. You know, we had not thought of that. That is a great approach. We ought to apply that kind of a standard, and we ought to have that presumption. We ought to develop that kind of a fine for the courts. But we ought to have substitute assets, too.

That is just to throw it in, to make it a little better. What is wrong with that is that pushes it much closer, in my judgment, to a constitutionally impermissible standard.

The CHAIRMAN. The gentleman from California [Mr. LUNGREN] has 2 minutes remaining and the gentleman from New Jersey [Mr. HUGHES] has 2 minutes remaining.

Mr. LUNGREN. Mr. Chairman, I yield myself the remaining time.

The CHAIRMAN. The gentleman from California [Mr. LUNGREN] is recognized for 2 minutes.

Mr. LUNGREN. Mr. Chairman, I might say I applaud the gentleman from New Jersey for those changes we made in the law. They are in fact good. But just because we have one good idea in the law now does not mean we ought to reject another good one.

Let me just talk about the fine. We can fine them up to \$20 million. With some of the major drug traffickers and some of the major organized crime figures today \$20 million is not sufficient. We ought to take their assets as well as \$20 million.

We know the types of dollars we are talking about. Why not have the ability to go after it?

If somebody is smart enough to be able to hide the assets that we are able to prove they got from their illegal enterprise, if they are able to hide that and they have purchased something, a pizza parlor, a baseball team, a building that happens to be worth the same amount, why ought not we be able to go after that? That is what this amendment does. Besides, the fine is discretionary.

It does not have to be imposed by the judge. The defendant still has ample time following indictment to dispose of any assets which would be subject to the alternative fine. By contrast, in forfeiture proceedings, the judge can order a freezing of the

assets. All I am asking for is an additional bit of ammunition.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I would be happy to yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding.

Will the gentleman correct me if I am mistaken: Is this not the magnitude of what we are talking about, in the range of \$100 billion spent in the United States on illegal drugs?

Mr. LUNGREN. At least. We think that is the low-ball estimate. Hundreds of billions of dollars.

Mr. FISH. Worldwide, I am told, it is about \$500 billion, which exceeds the national income of all but five countries in the world.

Mr. LUNGREN. Absolutely, and all we want to do is to say let us give law enforcement every single tool to get all of it if they can, not let us be confused by the smart guys out there who happen to be able to hire good lawyers and good accountants.

Mr. FISH. I thank the gentleman.

□ 1735

Mr. LUNGREN. Mr. Chairman, all I am saying here is let us give law enforcement every tool. Twenty million is a good fine, but sometimes these criminal enterprises, to them that is a spit in the ocean. Let us get every bit of their assets we can and let us hit them where it hurts, in their pocket-book.

Mr. HUGHES. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I would say to my colleagues that I am not going to belabor the point. Frankly, I can see just exactly what is happening. Anything that would appear to provide additional resources, no matter whether or not it is perhaps as constitutional impermissible, whether it adds anything to the arsenal, is going to be approved.

Let me just say to my colleagues, however, that in this instance, in my judgment, there are some constitutional problems. We push it very close to that limit. In one U.S. Circuit Court of Appeals case involving a RICO forfeiture provision, the court said the forfeiture provision should indeed be read to produce penalties which are not shockingly disproportionate to the offense. That is the concern we have.

For what it adds, it does not get at the assets we want to get at in Swiss bank accounts. It is just not worth the risk. It is that simple. If I felt it would be an important new tool, I would be leading the charge for law enforcement. I do not believe that. I do not believe it for the reason we developed the alternative approach to begin with. It was for that reason that our committee rejected it.

I might say that my colleague from California serves on my Subcommittee

on Crime and on the Judiciary Committee. The gentleman did not offer the amendment. It was debated at length. You cannot debate this in just 10 minutes and give it the kind of debate that it really needs. That is unfortunate.

I would hope my colleagues reject the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. LUNGREN].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment number 32 is in order.

AMENDMENT OFFERED BY MR. LUNGREN

Mr. LUNGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUNGREN: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneous Provisions

SEC. 671. EXCLUSION AND DEPORTATION OF CONTROLLED SUBSTANCES OFFENDERS.

(a) EXCLUSION.—Section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)) is amended—

(1) by striking out "any law or regulation relating to" and all that follows through "addiction-sustaining opiate" and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802)", and

(2) by striking out "any of the aforementioned drugs" and inserting in lieu thereof "any such controlled substance".

(b) DEPORTATION.—Section 241(a)(11) of such Act (8 U.S.C. 1251(a)(11)) is amended by striking out "any law or regulation relating to" and all that follows through "addiction-sustaining opiate" and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions occurring before, on, or after the date of the enactment of this Act, and the amendments made by subsection (a) shall apply to aliens entering the United States after the date of the enactment of this Act.

Mr. LUNGREN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. LUNGREN] will be recognized for 5 minutes and the gentleman from New Jersey [Mr. HUGHES] will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I do not think this amendment ought to be controversial.

Under the law today, I think there is a possible loophole in our immigration laws which could serve to inadvertently benefit those convicted of drug offenses.

Under the present law a sentencing judge has the authority to make a binding recommendation to the Attorney General that an alien convicted of a variety of Federal offenses not be deported. In other words, at the time the conviction takes place, the Federal judge can say, "But I do not want this person to be deported." That is a binding recommendation to the Attorney General the person cannot be deported.

However, we have made one exception to that binding recommendation authority. We have said that in drug cases that authority is not binding. They can make a recommendation to the Attorney General, but he still has his full discretion.

Unfortunately, we have not upgraded that or brought that up to present-day law, and we only articulate particular drug offenses. In other words, we do not include in here designer drugs, analogs of heroin, all this whole host of new types of drugs and offenses attached thereto, that I think people would readily say ought to not have a binding effect on the recommendation of the judicial officer but allow the discretion of the Attorney General to prevail.

That is simply what I do. What I say is if you are convicted of any drug offense on the Federal law, including those with designer drugs and so forth, the judge may make a recommendation but it is not binding on the Attorney General. The Attorney General then can exercise his discretion as to whether or not that ought to stop him from deporting someone.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I do not believe I oppose the gentleman's amendment. We have had a chance to discuss it. But let me just for the record ask again, is it the gentleman's intention by his amendment to do any damage to the act which the gentleman and I helped pass in 1981 which does give the Attorney General some discretion in certain kinds of drug-related matters with respect to exclusion as well as deportation?

Mr. LUNGREN. Mr. Chairman, I would answer the gentleman, no, I do not try to affect the discretion of the Attorney General. What I do try to do is say that the binding authority of the recommendation of the judge shall not prevail in drug cases. So the dis-

cretion of the Attorney General is not touched at all.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, as I understand it, what the gentleman is doing is substituting language, Controlled Substances Act language, for specific substances in the act.

Mr. LUNGREN. That is correct.

Mr. HUGHES. Mr. Chairman, I want to congratulate the gentleman on the amendment. I think it is a good amendment, and I intend to support the amendment.

Mr. LUNGREN. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I yield back the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. LUNGREN].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment number 33 is in order.

AMENDMENT OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEKAS: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneous Provisions

SEC. 671. DEATH PENALTY FOR CERTAIN CONTINUING CRIMINAL ENTERPRISE DRUG OFFENSES.

(a) ELEMENTS OF OFFENSE.—Section 408(a) of the Controlled Substances Act (21 U.S.C. 848(a)) is amended—

(1) by striking out "(a) Any" and inserting "(a)(1) Except as otherwise provided in this section, any" in lieu thereof;

(2) by striking out "; except that if" and inserting ". If" in lieu thereof; and

(3) by adding at the end the following:

"(2) If an individual intentionally engages in conduct during the course of a continuing criminal enterprise and thereby knowingly causes the death of any other individual, the individual so engaging shall be subject to the death penalty in accordance with this section."

(b) PROCEDURE APPLICABLE WITH RESPECT TO THE DEATH PENALTY.—Section 408 of the Controlled Substances Act is amended by adding at the end the following:

"Hearing Required With Respect To The Death Penalty

"(d) A person shall be subjected to the penalty of death for any offense under this section only if a hearing is held in accordance with this section.

"Notice By The Government In Death Penalty Cases

"(e)(1) Whenever the Government intends to seek the death penalty for an offense under this section for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth the aggravating factors which the Government will seek to prove as the basis for the death penalty.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"Hearing Before Court Or Jury

"(f)(1) When the attorney for the Government has filed a notice as required under subsection (d) and the defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) A jury impaneled pursuant to paragraph (1)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

"Proof Of Aggravating And Mitigating Factors

"(g) Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (j) and (k), or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (k), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors, and as to appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to

reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the information.

"Return Of Findings

"(h) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any mitigating factors, and any aggravating factors set forth in subsection (k), found to exist. If one of the aggravating factors set forth in subsection (k)(1) and another of the aggravating factors set forth in subsection (k) is found to exist, a special finding identifying any other aggravating factor may be returned. A finding of any aggravating or mitigating factor by a jury shall be made by unanimous vote. If an aggravating factor set forth in subsection (k)(1) is not found to exist or an aggravating factor set forth in subsection (k)(1) is found to exist but no other aggravating factor set forth in subsection (k) is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subparagraph (k)(1) and one or more of the other aggravating factors set forth in subsection (k) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"Imposition Of Sentence

"(i) Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"Mitigating Factors

"(j) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) The defendant was less than 18 years of age at the time of the crime.

"(2) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(3) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(4) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"(5) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of the offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"Aggravating Factors"

"(k) If the defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), the following aggravating factors shall be considered but are not exclusive:

"(1) The defendant—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim; or

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim.

"(2) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(4) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(5) In the commission of the offense or in escaping apprehension for a violation of subsection (a)(1), the defendant knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) The violation of this chapter in relation to which the conduct described in subsection (a)(2) occurred was a violation of section 405.

"(7) The defendant committed the offense in an especially heinous, cruel, or depraved manner.

"(8) The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(10) The defendant committed the offense against a judge, a law-enforcement officer, or an employee of a penal or correctional institution, while that victim was performing official duties or because of that victim's status as a public servant of the United States, or a State or political subdivision of the United States. For purposes of this paragraph the term 'law-enforcement officer' means a public servant authorized by law to conduct or engage in the prevention, investigation, or prosecution of an offense.

"Instruction To Jury On Right Of the Defendant To Justice Without Discrimination"

"(1) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant was not involved in reaching his or her individual decision.

"Sentencing In Capital Cases In Which Death Penalty Is Not Sought Or Imposed"

"(m) If a person is convicted for an offense under subsection (a)(2) and the court

does not impose the penalty of death, the court may impose a sentence of life imprisonment without the possibility of parole."

"Appeal In Capital Cases"

"(n)(1) In any case in which the sentence of death is imposed under this section, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28 of the United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"(2) On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under this section.

"(3) The court shall affirm the sentence if it determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of every aggravating factor upon which the sentence was based, together with the failure to find sufficient mitigating factors as set forth or allowed in this section.

In all other cases the court shall remand the case for reconsideration under this section. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence."

Mr. GEKAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 30 minutes and the gentleman from New Jersey [Mr. HUGHES] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the drug dealer will stop at nothing to further his enterprise. He would poison our populace; he would enslave our children; he would kill a judge; he would kill a prosecutor; he would kill a law enforcement officer; he would kill anybody who would stand in his way. That has been proved time and time by the history of this issue, in the recent history of this issue.

So the amendment I have to offer is society's response to this killer who seems unstoppable at this juncture in our history.

□ 1745

Mr. Chairman, the amendment that is before us is society's response to this

drug dealer, this czar of the most pernicious traffic ever known to mankind.

This amendment would offer the jury in a case in which a continuing criminal enterprise concerning drug traffic becomes the issue at trial that when an intentional death is caused at the hands of this drug dealer czar kingpin, that that intentional death would result in the possibility of the imposition of the death penalty under the constitutional provisions that have stood the test of the Supreme Court in allowing juries to make that choice.

This amendment I warrant to you and I represent to you, my colleagues, is very carefully drafted. It will pass constitutional muster. It provides for the bifurcated system of a jury deliberation in which first the jury must find guilt or innocence and in fact it does find a verdict of guilty for a continuing criminal enterprise involving drugs, and then also find as part of the facts there that an intentional death occurred at the hands of this drug czar, then in a separate hearing, where they can hear aggravating factors and mitigating factors they can conclude that the imposition of the death penalty would be an appropriate remedy. That is what this amendment does.

There can be no ultimate war on drugs if we do not cast our ultimate weapon: To place the fear of capital punishment in front to the drug czar who does anything he wants as we sit and stand here today.

We have countless instances of judges, law enforcement officers and others who are trying to bring this menace under control who have been killed at the hands of a drug kingpin.

In Texas, a Federal judge, deeply embedded in a trial concerning a drug czar, if you will, and a whole drug conspiracy, a continuing criminal enterprise if you will, that judge was excused, I mean killed, murdered at the direction of a drug kingpin.

It is not appalling, I ask you, Members of the House, that there exists no procedure in our Federal law that would cover such a killing? This amendment, in the case of a drug czar, doing this act, would cover that situation and allow a jury to find the death penalty if appropriate.

I ask you as people who have shown in vote after vote on the drug package that is before us that you consider the law enforcement officer and the efforts of law enforcement generally and the efforts of the judiciary and the efforts of the Federal Government on a whole host of levels to do everything in this all-out war on drugs that you must not allow that war to be waged without the ultimate weapon, the threat of the death penalty to apply to the killer drug dealer.

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. I thank the gentleman for yielding me this time.

Mr. Chairman, I think it is a great mistake to bring the death penalty into this bill and to have to debate and vote on it because it is an issue that is very deeply felt by many people throughout the United States and indeed in this body and also whether or not the amendment is approved is not going to make any difference. It is not going to help the war against drugs one tiny, tiny bit.

The President understands this. The President and I do not often agree, but we certainly agree on this. It is very divisive and should not be injected into an important bill like this.

These people do not think they are going to get caught; the people that the gentleman from Pennsylvania refers to, my friend, Mr. GEKAS. These are professional dealers and hired killers and they do not really care about the difference between life imprisonment and the death penalty.

Also, if this amendment is adopted, it is going to jeopardize passage in the Senate. There are, in the other body, Members who will filibuster this bill. I assure you, if this amendment is adopted.

Any death penalty is going to be arbitrary and capricious and this particular amendment, particularly so. It applies only to individuals engaged in, "A continuing criminal enterprise. Individuals not engaged in a continuing enterprise will not be subject to death. Individuals engaged in other crimes will not be subject, and in all likelihood the kingpins," the ones that you really intend to go after, " * * * who are insulated by layers of underlings will not be subject."

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Michigan.

Mr. CONYERS. What does the gentleman mean by that? Why that distinction? Is there some reason why some Americans will be put to death and others will just be given life?

Mr. HUGHES. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise to vigorously oppose the gentleman's amendment. The death penalty is one of the most divisive and difficult issues in the political arena. President Reagan has recognized this, which is why he spoke out just this week, and I quote:

We think the drug issue is too important, and we want to approach it with a consensus of the American people so it does not get embroiled in a side issue such as the death penalty.

Now I oppose the death penalty, for several very important reasons.

The President disagrees—he favors the death penalty. He has stated, however, that it is a side issue that must not be allowed to jeopardize this legislative package. A filibuster in the other body is certain if this amendment is adopted. With little time remaining in this Congress, we can't afford to take the chance that this vital legislation will be derailed.

There are a number of reasons why even those who favor the death penalty can and should oppose the amendment. First, this amendment will actually drain the resources the Federal Government must use in this war against drugs. In all 37 States that provide the death penalty, that punishment is already authorized for virtually the same crimes covered by this amendment. Under the amendment, the Federal Government would spend millions of dollars prosecuting offenses which are now handled by the States. These capital cases require both complex trials and lengthy appeals and are consequently many times more expensive than noncapital criminal cases. A recent study pegs the cost at \$1.8 million for trial and first appeals alone. Time and money spent duplicating State efforts cannot then be spent in areas where the Federal Government can make a unique contribution, which is the driving force of this bill.

And, in States which have not authorized the death penalty for crimes covered by this amendment, Congress would be usurping the States' prerogative to determine punishment under their own criminal laws.

□ 1755

In addition, this amendment will add a tremendous burden to the Federal courts, a burden that is now handled by State courts, when Federal courts especially in drug-intensive areas of the country, are already choking on their caseloads.

Further, the amendment as written is seriously flawed in that it fails to meet the standards for imposition of the death penalty set out by the Supreme Court in several recent cases. First, the amendment unconstitutionally authorizes death as punishment for conduct that results in the death of an individual regardless of whether the accused actually killed the victim, attempted to kill the victim or intended that the victim be killed. This unconstitutionally broad application of the death penalty is contrary to two recent Supreme Court decisions.

Second, the unconstitutionally broad scope of the amendment is exacerbated by the amendment's failure to provide adequate guidance in distinguishing those offenses which are punishable by death from those which are not.

In fact, a death sentence which was imposed on the basis of language quite similar to that in the amendment was overturned by the Supreme Court in *Godfrey v. Georgia*, 446 U.S. 420 (1980).

Third, the amendment would also permit a death sentence to be imposed on the basis of "information presented regardless of its admissibility under the rules governing the admissibility of evidence at criminal trials." The use of such unreliable evidence would create a level of uncertainty which should not be tolerated in capital cases.

Fourth, the appellate review provision may subject the defendant to double jeopardy by requiring the appellate court to remand the case, rather than vacating the death sentence, in all cases in which the death sentence is not affirmed, again contrary to two recent Supreme Court cases.

For all these reasons, the amendment was defeated in subcommittee and again in the full Committee on the Judiciary. Most importantly, because adoption of this amendment would seriously endanger the legislative fate of this drug package, those who favor the death penalty can and should join with those who do not, in once again defeating this amendment.

Mr. GEKAS. Mr. Chairman, I yield myself as much time as I may consume, the main purpose for which would be to enter into the RECORD, if that would be in order, a letter that we received from the Justice Department in which the tenor of the letter is that the President of the United States and the Federal law enforcement community and the Attorney General all endorse the instant amendment.

At the end of the vote, at the various doors of the Chamber, I will distribute copies of that letter along with a request that each Member vote yes on this amendment.

The letter is as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTER-
GOVERNMENTAL AFFAIRS,
Washington, DC, September 10, 1986.

The SPEAKER,
House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On behalf of the President and the federal law enforcement community, I would like to communicate our unqualified support for the amendment to be offered by Congressman George Gekas authorizing the imposition of the death penalty for certain drug-related homicides.

Murder has historically been viewed as one of the most heinous crimes which a person can commit, a crime which demands punishment truly proportionate to the offense. Where murders are committed by persons in furtherance of pernicious drug distribution schemes, the concept of proportionate punishment mandates that the death penalty be available. Only through bold and dramatic action such as that proposed by Mr. Gekas can we bring home to

drug traffickers that their violent acts will not be tolerated by the American public.

As you know, the Administration endorses the death penalty as an appropriate sanction for the most heinous federal crimes, and has supported comprehensive death penalty legislation, S. 239, which has already been reported favorably by the Senate Judiciary Committee. In the House, Congressman Gekas' comparable bill, H.R. 343, has been pending for more than a year. The Department has also supported individual death penalty proposals such as that added to anti-terrorism legislation earlier this year in the House Subcommittee on Crime but never acted on by the full Committee or on the House floor.

We likewise strongly support the Gekas Amendment. We feel that House action on this measure will represent the clearest test of the determination of Members to give federal law enforcement authorities the weapons we must have in order to deal effectively with narcoterrorists and renegade drug traffickers whose contempt for human life defies understanding. For far too long, federal law enforcement officials have struggled against the forces of lawlessness without access to the ultimate judicial sanction. The amendment offered by Mr. Gekas presents a long awaited opportunity to remedy this imbalance and, if approved, would represent one of the most important features of the historic legislative endeavor upon which you have embarked.

Sincerely,

JOHN R. BOLTON,
Assistant Attorney General.

Mr. GEKAS. But what I am asking the Members now to recognize is that what the President said in the past was something that we have all known, that the issue was divisive within the confines of the Judiciary Committee where we were never accorded the full right for years at a time, actually years, to air the issue of the applicability of the death penalty in proper cases. Even though we had hearings galore, even though the chairman of the Criminal Justice Subcommittee accorded us hearing after hearing on it, we were never able to overcome the feeling among the majority members of the Judiciary Committee that any death penalty legislation that would come that far to the full committee would be crushed before it had a chance to reach the floor. That is the feeling that this Member had, which was amply evidenced by a host of things that developed. That is what the President of the United States was saying. He was saying if indeed our drug package, if indeed the Presidential movement and momentum to bring about reform of our drug laws and to get tough with our drug criminals is to succeed, I do not want to see it get bogged down in the Judiciary Committee, even though I believe in the death penalty, if the death penalty is going to be the stumbling block to the full passage of drug legislation.

But Mr. Chairman, we have now gone beyond that. We have now come to a point where the President knows that the drug package can no longer

be held hostage to the death penalty bill, that it is part and parcel of the great movement on the part of the U.S. Congress to begin and to continue the war on drugs.

So the President of the United States applauds our collective efforts here today in supporting this amendment.

Mr. CONYERS. Mr. Chairman, will my colleague yield?

Mr. GEKAS. I cannot at the moment. The gentleman can get his own time and can yield to me so that I can respond to the gentleman, because I have other speakers.

Mr. CONYERS. Mr. Chairman, will the gentleman yield to me to respond to his declination of yielding?

Mr. GEKAS. I cannot, I say to the gentleman. The gentleman knows I have been fair to him from the beginning of time.

Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I for one sincerely and strongly support the amendment of the gentleman from Pennsylvania.

It has been said here that if this amendment is adopted that in the other body there will be a filibuster and we will see the end of the antidrug bill. That is a decision that the other body should make and not here.

I believe that the Members of this body should make their own decision as to whether or not we should have a death penalty for not just a person who in the course of drug trafficking kills another, but of a person who actually has been engaged in the business of it and knowingly, deliberately kills another.

I firmly believe that there should be a punishment, a death penalty for that type of person, just as much as I believe if the Judiciary Committee would act properly that this body would eventually be able to decide whether or not there should be a death penalty for the person who kills a law enforcement officer in the course of his duties as a law enforcement officer, just as also this body should be able to decide whether or not there should be a death penalty for a person who commits mass murder and many other crimes, which I believe are appropriate for a death penalty.

I do not believe many Members in this body like the idea of having a death penalty. I do not, for one, and I never have; but I believe that today in our society we need to have this type of punishment in order to try to prevent as many crimes as possible resulting in the killing of another human being.

Human life is sanctus, indeed, it is very sacred to every Member in this body; but on the other hand, the taking of a human life by another, de-

liberately, premeditatedly, solely for the purpose of killing that person, I believe a person when he does so forfeits their right to live.

Mr. Chairman, I support the amendment.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I am not authorized to speak for the President of the United States, but I can say that he does not support this particular provision. He talked about the death penalty. He did not talk about the Gekas provision, and I am glad that he did not, because I say to the ranking member of the Criminal Justice Subcommittee that it is fatally flawed. I hope I may gain the gentleman's attention, because we spent a lot of time perfecting the gentleman's proposals in my committee.

This thing is fatally flawed. It is unconstitutional, Mr. Chairman.

Now, the second thing I want to say is that this is the fried-in provision. We have given up, let us just fry everybody that gets involved in drugs. Well, maybe so; but you know, in States like Pennsylvania, from which the gentleman from Pennsylvania [Mr. GEKAS] comes, that has the death penalty, guess what? They do not use it. They do not use it because it would have a reverse effect on the criminal justice system. Too many times when you bring that in to a courtroom, they are going to say, well, maybe they are guilty, but death, the gas chamber, the rope and so on? I am telling you that this will not work.

We have got a big problem, but it is not going to be solved this way.

Now, the third point I want to make about the death penalty in general is that it is being tested in the courts now about its discriminatory effect. The Supreme Court has recently—may I gain the attention of the gentleman, please—all right.

Mr. Chairman, I say to the gentleman from Pennsylvania [Mr. GEKAS], this question has been slotted before the U.S. Supreme Court on the precise reason that we hold so many hearings in the Criminal Justice Subcommittee, the discriminatory nature of the death penalty as it has been historically applied in the United States, so we now have for the first time McClusky versus Kemp in which we are going to examine all the studies and allegations of a racially discriminatory character of the death penalty.

It is also economically discriminatory. Nobody rich has ever gotten the death penalty, to be brief about it.

If I thought that this amendment was going to democratize the death penalty, at least it would give pause to consider; but do not worry, it will not. It has been misapplied, reluctantly applied, and not used, so please, let us

not try to change American law in one evening in the course of a drug bill. We have already done enough in that direction; so let us turn this amendment aside.

Then I would ask the gentleman to join with me in the regular disposition of this important measure.

Mr. GEKAS. Mr. Chairman, I yield 4½ minutes to the gentleman from Florida [Mr. SHAW].

I might say, Mr. Chairman, that it is the gentleman from Florida, Mr. CLAY SHAW, who first introduced the idea of homing in on the drug czar as a target for the application of the death penalty in appropriate cases.

Mr. SHAW. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding.

I have some prepared remarks which I would like to read into the RECORD. Before I do so, I must for one moment reply to the comments from the gentleman from Michigan who immediately preceded me.

I can assure my colleagues that we are not after the impoverished drug dealer.

Mr. Chairman, the Gekas drug dealer death penalty amendment represents the language of a bill, H.R. 4815 that I introduced earlier in this Congress. My intentions in drafting this legislation as well as my intentions for supporting this amendment represent my strongest and my most complex feelings toward this undefinable and to date untouchable drug scourge that has scarred the moral fiber and the youth of this country. I, a Member of this body from southeast Florida, where so much of this drug war has been fought and lost, want to discourage the drug runner, want to hurt the drug runner and most of all want to stop the drug runner. Nothing has worked. We have tried so many things and the reality remains that nothing has worked.

This amendment, which sets forth very narrow and specific procedures for allowing a jury, once they have found a drug dealer guilty of murder, to determine whether or not to also find him subject to the death penalty, takes this war into a new realm. This amendment says to the drug dealer, we as a society have determined that you represent a cause so severe and invincible, that we must subject you to the most severe penalty we as a society can impose. This amendment says to the American people, we as a society who hold human life as the most cherished value in our country, are willing to impose the most severe penalty we know of against the drug dealer. Yes, we are going to require that you not only be a large-scale drug dealer, and that you be involved in an ongoing conspiracy and that you intentionally kill somebody before we subject you to that supreme penalty, but you are now subject to it.

This Member does not have a problem imposing the death penalty on one who intentionally takes a human life, as this amendment does. This Member does not have a problem telling the American people that he is willing to make drug running one of the most severely punished activities in this country. And this Member does not have a problem singling out the drug runner as the target of the most grave punishment our society can impose on an individual.

This bill has been drafted in conformance with guidelines specifically set forth by the U.S. Supreme Court in developing a uniform and constitutional approach for the several States to follow in imposing the death penalty. This bill requires two separate jury determinations before allowing a judge to even consider imposing the death penalty; it requires an intentional killing by a defendant and it requires a jury to make several—I repeat several—findings of aggravating and mitigating factors before even determining that a judge may impose the death penalty. If it is possible to draft a death penalty bill that is constitutional and that is fair, this amendment is it. It does single out the drug dealer to be subject to the death penalty, just as this body singled out the airplane hijacker for the death penalty several years ago.

I think the drug dealer/murderer ought to at least be subject to the same penalty as the hijacker. I think the drug dealer is in a position to do a great deal more harm to this country than the hijacker ever was or will be.

I urge my colleagues to give this amendment serious consideration and then vote to pass it—let's tell the drug dealer where he stands in our eyes.

□ 1810

Mr. HUGHES. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

Mr. Chairman, the enactment of a capital punishment statute as punishment for any crime in my opinion contradicts the high ideals and principles for which this Nation purports to stand. The application of government sanctioned executions makes a mockery of our religious credos, cheapens our moral values and demeans human worth. The mandate of the sixth commandment: Thou shall not kill—does not exempt individuals, criminal cartels or the U.S. Government, but religious tenets and capital punishment is barbaric and should have no place in civilized society.

Our national experience in the use of capital punishment has proven that there has been little, if any, deterrent effect; it has been exclu-

sively applied to certain classes of powerless people and has called into question our stated assertions about the value of human life.

Race and poverty are the dominant factors determining who will be executed in the United States. Not one rich person has ever gone to the gallows. Only poor whites and minorities are forced to walk the last mile and choose a last supper. Many scholarly studies substantiate charges that the death penalty is never meted out as fitting retribution for the economically elite. In particular, they document relationship between race of the criminal, race of the victim and differences in assessing punishment depending on those races. A white criminal and a black victim or a black criminal and a black victim invariably end up with little or no punishment. But black criminals and white victims or white criminals and white victims are much more likely to be considered serious threats to an orderly society and punished accordingly. I contend the same scenario would prevail in judging the dispensers of illegal narcotics.

The application of capital punishment is reserved for those in this society who are economically and politically powerless. Only poor whites and racial minorities are victimized by this act of vengeance, euphoniously referred to as fitting retribution for those who callously disregard the right of others to live.

Premeditated murder or wrongful death through illegal drug dealings committed by individuals or groups of individuals or by vigilantes or the State are heinous acts under any set of ethical rules possible to devise. We must have the courage to confront this moral dilemma and the wisdom to reject forthright this morally perverse recommendation.

According to a recent Gallup poll, more than two out of three persons in this country support the imposition of capital punishment. Equally alarming are national polls indicating two out of three Americans oppose protections afforded by the first amendment to the Constitution; favor abolishing the Supreme Court and support reestablishing corporal punishment in public schools. Finally, polls reflect the sad truth that two out of three students now finishing high school are functional illiterates. If nothing else, national polls make a persuasive argument for going beyond popular referendum in arriving at moral imperatives.

Church leadership in this country does not passively oppose capital punishment, but aggressively speaks out, loudly and clearly, against the death penalty. Most spokespersons for organized religion in the United States have emphatically stated their consternation of capital punishment and labeled it as demeaning to the value of human existence.

At seminars and national conventions, leaders of the Methodist church, Episcopalians, Christian Church, (Disciples of Christ), Lutheran church in America, Presbyterian church (U.S.A.), American Baptist churches in the U.S.A., all Jewish conferences and the American Catholic bishops have gone on record in opposition to the death penalty.

According to American Catholic bishops, there seems to be no middle ground on this basic question of morality.

The bishops stated:

We believe that in the conditions of contemporary American Society, the legitimate purposes of punishment do not justify the imposition of the death penalty. * * * In the first place, we note that infliction of the death penalty extinguishes possibilities for reform and rehabilitation. * * * Second, the imposition of capital punishment involves the possibility of mistake. * * * Third, the legal imposition of capital punishment in our society involves long unavoidable delays. * * * Delay also diminishes the effectiveness of capital punishment as a deterrent. * * * Fourth, we believe that the actual carrying out of the death penalty brings with it great and avoidable anguish for the criminal, for his family and loved ones, and for those who are called on to witness or to perform the execution. * * * Fifth, in the present situation of dispute over the justifiability of the death penalty and at a time when executions have been rare, executions attract enormous publicity, much of it unhealthy, and stir considerable acrimony in public discussion. * * * Sixth, there is a widespread belief that many convicted criminals are sentenced to death in an unfair and discriminatory manner. * * *

Bishop Edward D. Head of Buffalo, who assisted in drafting the position paper for the conference said, "Our statement was grounded in the belief that the taking of life should not be answered by more violence in the taking of more life." ¹

Even when the Federal Government was empowered to use the death penalty for civil offenses, it rarely was imposed. The only civilians ever convicted in a federal court and executed for espionage involved the 1953 nuclear spying trial of Julius and Ethel Rosenberg. That case is still the subject of much controversy. They, too, fit the criteria for capital punishment in the United States. Both were members of a minority group—Jewish.

A single passage from the Old Testament of the Bible provides what many people believe sufficient moral validity for supporting capital punishment.

Using the phrase, "an eye for an eye," they erect a theological basis, from which they seek to rationalize government inflicted homicide. Nothing short of revenge and insensitive consideration of other humans, drive those who cite this restricted phrase to underpin their case for capital punishment. Convenient quotations and tasteful utterances do not alter reality. The hypocrisy of this mental generation has been reduced to its irreversible common denominator by Albert Camus who wrote:

Let us call it by the name, which, for lack of any other nobility, will at least give the nobility of truth, and let us recognize it for what it is essentially: a revenge. ²

The full text of an "eye for an eye" paints with a wide brush numerous human acts abhorrent to civilized people. Other sections of that parable are so outlandish, so unreasonable, so contrary to any just code of ethics, its readily perceived why they are not quoted in defense of the death penalty. An integral part of that language specifies when an eye will be

plucked. Continued reading of the passage reveals that,

a kidnapper, whether he sells his victim or still has him when caught, shall be put to death. * * * whoever curses his father or mother shall be put to death. * * * when a man strikes his male or female slave with a rod so hard that the slave dies under his hand, he shall be punished. If, however, the slave survives for a day or two, he is not to be punished, since the slave is his own property. ³

The next section is even more preposterous. Chapter 21 of Exodus, verses 22, 23, and 24 states:

When men have a fight and hurt a pregnant woman, so that she suffers a miscarriage, but not further injury, the guilty one shall be fined as much as the woman's husband demands of him, and he shall pay in the presence of the judges. But if injury ensues, you shall give life for life, eye for eye, tooth for tooth, hand for hand. * * *

In one fell-swoop, these words in the book of Exodus sanction human slavery, cater to the notion that men are superior to women, and advocate vengeance as a means of resolving human differences. What a phenomena that intelligent people of genuine religious persuasion use this particular passage of complete intolerance to justify the moral efficacy of capital punishment?

Does the Bible dictate that a child who is the victim of physical and/or sexual abuse by a parent must be killed because he curses his mother or father? Does it suggest contempt for the rights of women? A man striking a pregnant woman shall be punished only to the extent of the injury afflicted and then only for damages demanded by her husband. What authority gives a man the sole discretion to make that determination? The woman's rights, her health, her safety, her feelings are reduced to secondary importance in this situation. According to this passage in the Bible, a woman's rights exist exclusively in the preceptions of men. Literally reading, in this instance can only be translated as unadulterated male chauvinism.

Most significantly perhaps, it can be construed from this passage that the Bible for ever and all times embraces the barbarism of human slavery.

During the 18th and 19th centuries, American Christians who rigorously adhered to these tenets were not morally outraged when other Christians kidnaped tens of thousands of black Africans and sold them into slavery to other Christians. Economics, not ethics, obviously influenced their religious interpretation of this passage in the Bible. Mistreatment of slaves according to the Old Testament is not prohibited. In fact, it is approved of if properly applied. Only a master who beat his slave so severely that he died immediately was to be punished. A master skillful in using the lash might even be canonized if the slave lived for two weeks, 3 days, and 2 hours. What the Bible does say in unequivocal terms, is that one man has the God given right to own another man and also the option to physically abuse that other human being.

One need not look far to see that strict application of these passages is contradicted in the Bible itself. According to scripture, all kidnappers, regardless of severity of the offense, must be executed. Literal interpretation of the Bible does not support current philosophical and moral attitudes.

Killing kidnappers represents a stark contradiction to the story in the book of Genesis involving the sale of Joseph by his brothers. Two of them plotted to kill and throw him into a cistern; claiming that a wild beast devoured him. A third brother, Reuben, persuaded them to merely throw him into the cistern. Should Reuben also have been killed for his complicity in the crime? And more contradictory to the "eye for an eye" interpretation is that when the scheme finally unfolded, Joseph said to them:

Do not fear; can I take the place of God? * * * You intended evil against me, but God intended it for good, to do as he has done today, namely, to save the lives of many people. Therefore do not fear, I will provide for you and your dependents. ⁴

The Federal Governments will be no more successful in use of capital punishment to deter crime as they would be in forcing jack rabbits to apply for marriage licenses. Threat of death to hardened criminals serves the same purpose as locks on doors to keep out professional burglars.

If there is deterrent value in imposing the death penalty, it is minimal at best. All evidence points to it being negligible if not negative. No scientific study has documented any cases proving it deterred others from committing similar crimes. Capital punishment as a deterrent to heinous crime, is the most widely accepted myth in American lore.

Fear of being detected, arrested, sentenced for serious crime is the least concern in the minds of those who engage in the sort of criminal activity prohibited by this amendment. Psychological tests determine that the degree to which a stiff sentence is effective, depends on the ability of the Government to carry out its threat. Mandating harsh penalties has less impact on deterring criminal act than practicing consistent punishment. In fact, if authority equivocates repressive measures with justice, the opposite result is true.

The greatest deterrent for those inclined to commit acts of violence, is the realization that in no uncertain terms that they will be subjected to coercive treatment. Patting some on the wrist and throwing the book at others, leaves too much room for conjecture. Those who abuse the rules should know the severity of punishment in store for them.

Studies conducted by criminologists, political scientists, and sociologists conclude that even in highly publicized cases, involving specific geographical areas, homicides have not diminished during periods leading up to or immediately following executions. This data substantiate the reality that homicides are no more frequent in States which have abolished capital punishment than in those who still employ it. Lives and property are no more jeopardized in non-capital punishment States than in others.

¹ Ibid.

² "American Catholic Bishops Detail Opposition to Capital Punishment," the Washington Post, November 14, 1983, p. C5.

³ Albert Camus, "Reflections on the Guillotine," *Evergreen Review*, (1957).

⁴ Op.cit., the Holy Bible, Exodus 16-21, p. 65.

⁵ Ibid., Exodus 22-24, p. 65.

⁶ Ibid., Genesis 50:19-21, p. 45.

If there is any salient societal good in capital punishment, it is not readily evident in statistics showing its effects on future actions of people. Deterrence, as it relates to crime means, a person deliberately abstains from specific illegal acts for fear of being punished. In the case of capital punishment, proponents argue, death is the most feared emotion of man, therefore, the threat of it, the most effective deterrent weapon. There is no argument as to the severity of executions. Therefore, it should be a simple matter to show the relationship between its application and a decrease in the kinds of crimes which merit the punishment. Reasonable people engaged in reasonable thought processes, sufficiently fearful of death, would not commit such crimes if afraid of the consequences. But most of those engaged in illegal narcotic trafficking are not reasonable people engaging in rational thought processes.

The present system of intimidating, frightening those who may tend to engage in antisocial acts is failing to achieve its goal. One recent study indicates that the death penalty in fact induces more crime. Conducted by Bowers and Pierce of the Center for Applied Social Research at Northeastern University, the study found that in the State of Massachusetts between 1907 and 1963 after executions, there averaged two more homicides than normal in the month following the execution. This finding held true even when other possibly relevant factors were accounted for—including seasonality, the effects of war and time trends.

The two authors suggest that executions may actually devalue appreciation for life because they are viewed by the public as human sacrifice. In addition, executions have a tendency to demonstrate that killing is an appropriate way of settling disputes.

At very least, the burden of proof rests with those who claim capital punishment a deterrent to capital crime. It is their responsibility to build a case. Speculation without evidence is not prudent. Simple utterance of a statement does not make it fact.

What is necessary to establish that the death penalty is a deterrent? Firstly and foremost, prove that States which impose capital punishment have a substantially lower rate of murder than States who have abolished it. Since all available data shows this is simply not the case, proponents must conduct their own studies. Who knows, their findings may differ? Second, there should be evidence that when a highly publicized execution occurs in the community where a notorious crime was committed, the rate of murder decreases appreciable. Proponents of capital punishment cannot point to one neighborhood where this has happened. A professional research team hired by them ought to be able to find one example. Third, States that have imposed the death penalty should experience a sharp decrease in crimes which carry that penalty, while States which have abolished it will show a sharp increase in these types of crimes. This is not the case in a single instance where States have either imposed or abolished the death penalty. Fourth, the inhabitants of States which authorize the death penalty should feel safer on their streets than the citizens in States that have repealed it. This ap-

parently is not the case. Florida, Texas, and California have 25 percent of the total number of persons in the United States awaiting death. Their residents do not feel any safer than those in non-capital punishment States such as Michigan, Massachusetts, and South Dakota. Placing on death row, mass murderers in California; drug related murderers in Florida; cowboy murderers in Texas does not make Sunset Boulevard, Los Angeles, Flagler Street, Miami or Main Street, Houston more safe than King Street in Hawaii, Honolulu.

Clearly if the death penalty were an effective deterrent, those States applying it would have less incidence of major crime. At a minimum, there must be some showing of a relationship between the threat of capital punishment and the fear of criminals to engage in the sort of crimes to which capital punishment is applied. There is no known correlation.

This controversy has continued for generations. The majority of those societies that engaged in serious discussions, eventually abolished capital punishment. Reasons other nations prohibited official taking of life by the State are various and sundry. But ultimately, they all concluded that capital punishment is anathema to civilized people.

Debate, for or against, has produced a large body of writings but little justification for its usage. That's why most nations in the Western World have stopped executing criminals. Capital punishment popularly believed to deter crime at one time was honored by all European nations. Today, France, England, Germany, Belgium, the Netherlands, Austria, Italy, Luxembourg, Portugal, Spain, have abolished it. Most South American countries have stopped employing it. The only developed countries in the western alliance which still believe in State executions are Japan, South Africa, and the United States. Japan has not executed anyone in more than 30 years. The three nations, however, enjoy this communality with alien comrades behind the Iron Curtain: Russia, China, Vietnam, North Korea. Mr. Chairman, I urge my colleagues to vote against this amendment.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

Mr. Chairman, in the past 2 days many Members have come to the well to describe the terrible scourge of illegal drugs that confronts the Nation. They have advocated serious measures to fight this problem, many of which I agree with and some with which I do not. The bill contains many important weapons that can be effective in the war against drugs. If the bill is not enacted into law, however, it might as well contain nothing. And the gentleman's amendment—unintentionally, to be sure—might very well sink this legislation.

So, if you want to see this drug legislation fail, vote for the gentleman's amendment. For as surely as I stand here, Members of the other body will filibuster. Although it appears to some that the death penalty is a political issue, it is not; it is a moral issue. For that reason it will face fierce opposi-

tion, opposition that can surely doom legislation this late in the session.

I say this, frankly, not simply out of concern for this bill. The death penalty is a moral issue for me as well; I firmly oppose it and always will. The point was eloquently made by Camus, who wrote that an execution—

is not simply death. It is just as different * * * from the privation of life as a concentration camp is from prison * * * It adds to death a * * * public premeditation known to the future victim, an organization * * * which is itself a source of moral sufferings more terrible than death. [Capital punishment] is * * * the most premeditated of murders, to which no criminal's deed, however calculated * * * can be compared * * * For there to be an equivalency, the death penalty would have to punish a criminal who had warned his victim of the date at which he would inflict a horrible death on him and who, from that moment onward, had confined him at his mercy for months. Such a monster is not encountered in private life.

In addition to my moral opposition, which is shared by virtually all of the major religious organizations, I am opposed to the death penalty because it does not deter crime, is applied with racial discrimination, can result in the execution of an innocent person, and is bad public policy for a host of other important reasons, as already expressed by my chairman and other colleagues.

The people of Wisconsin agree with me. There is no death penalty in Wisconsin. The gentleman's amendment would usurp the right of the citizens of Wisconsin, and of every other State, to determine the penalty for criminal acts that have always been squarely within State jurisdiction. This amendment is a quantum leap in the expansion of Federal criminal jurisdiction, and there have been no hearings, no demonstration of need, no estimate of cost.

I urge my colleagues to vote against the gentleman's amendment.

Mr. GEKAS. Mr. Chairman, may I inquire as to how much time is remaining?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GEKAS] has 15½ minutes remaining and the gentleman from New Jersey [Mr. HUGHES] has 18 minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. HOPKINS].

Mr. HOPKINS. Mr. Chairman, I appreciate the gentleman's yielding time to me.

Mr. Chairman, I had no idea that I was going to be involved today in this amendment, but I cannot help but respond to the statements of my colleague, the gentleman from Wisconsin [Mr. KASTENMEIER], insofar as the death penalty not being a deterrent.

I do not know how many States have the death penalty in our country, and I do not know how many people have been executed by these individual

States, but I do know that not one of those persons has committed a single crime since then. So you be the judge as to whether or not the death penalty is a deterrent. I think that the record is very clear on that.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Chairman, I find that this is a very divisive issue for myself, and I feel divided morally and intellectually.

I have no quarrel with the use of the death penalty where there is no feasible alternative to deter violent crime, nor do I feel that in this case it is necessarily inappropriate. Somehow the message is going to have to get across to the people who have no moral or other human compunctions that if they are going to use violence that results in the death of another person, they are putting their own lives in jeopardy. That is the only way I see to get across to some of the animals that are loose in this country today. But the question is, How do we do it in a way that is narrowly defined to achieve the particular target that we are concerned about, and at the same time do not prejudice the moral rectitude of our laws generally, and the protection of innocent citizens.

With that in mind, I would like to ask the author of this amendment a couple of questions to clarify, hopefully, the meaning.

The key to this amendment is paragraph (a)(2), as I understand it, and it says as follows—and it might be helpful to have it in the RECORD so that people following this debate can see what it says. It says, "If an individual intentionally engages in conduct during the course of a continuing criminal enterprise and thereby knowingly causes the death of another individual, the individual so engaging shall be subject to the death penalty in accordance with this section."

I would like to ask the gentleman who is the author of this amendment, what is meant by "knowingly causes the death of another individual"? How can you knowingly cause the death of another individual and still not intend the death of that individual?

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. The gentleman quite properly points out "knowingly causes the death of another individual" appears in subsection (2). However, it must be read in conjunction with the later provisions in the bifurcated system on aggravating factors which brings in the necessity of an intentional killing. This merely triggers, if you have a defendant who knowingly caused the death of someone, then you have that triggered into the aggravating circumstances where it must

further be proved, or else a person cannot be subjected to the death penalty, that there was an intentional killing. And so this "knowingly" does not apply and cannot apply to someone who unintentionally or even knowing that it might cause the death did not intentionally cause the death.

□ 1820

Mr. SEIBERLING. That is extremely important because, as the gentleman knows, criminal statutes must be narrowly construed in favor of the defendant. If this is too narrow, it is not going to do the job, and if it is too broad, then it is bad from the constitutional standpoint.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, as a parent, I was absolutely delighted to see this body move on a drug bill with the kind of consensus that we have had because there is nothing, I think, that any parent in America fears more than drugs and people trying to make money off of children. It is a horrible thing.

Yet, for one of the rare times in my life, I agree with the President of the United States. This should not have been partisan; this should have been bipartisan. This should have been a consensus and this should have moved forward.

There are some very good things in here that we are doing and that should be happening. But we are in a political season and I must say I am very saddened by amendments like this and I hope people vote against these amendments.

In football, there is a thing called "piling on." I think we are seeing political piling on right before the election.

If we want to talk about what we could do about drugs, I can think of some amendments that I would have liked to have offered. We have the pediatricians of America telling us that they cannot tell you who will become a drug addict, but they can tell you who will not. The ones that will not are the ones who have had proper bonding with their parents at birth.

So I probably should have offered parental leave as an amendment to this.

We can think of all sorts of things that would have been preventive and that are very important. But when you get into this particular amendment, very controversial, it may kill the whole thing. You are talking about professionals, the worst people. For those professionals, this is not going to stop them from becoming professionals because, let us be honest, they are in it to make money.

What are they going to do? They are going to go out and hire kids. They are going to pass it on to someone else. We

know that because we have seen the experience.

There has never been a study showing that this really deters. If you wanted to deter, you should have backed parental leave or we should have done all sorts of other things.

We always have heard over and over again, you should never see law or sausage made. In these waning hours, I really regret watching this law made because I worry as a parent that what we are doing is sinking the whole bill and we will lose that consensus the President brought together.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I want to commend the subcommittee chairman, the gentleman from New Jersey [Mr. HUGHES], for his efforts, not only in crime, but in the area of drugs, the Select Committee on Narcotics, and the gentleman from New Jersey, Chairman RODINO.

If you look at my voting record, it is 99 percent paralled to most of the Members on this side of the aisle. I offered legislation that includes the death penalty far before an election came about.

I just want to offer this today: The drug legislation alone will not solve the drug problem in America. Until we deal with the root causes of poverty, unemployment, and conditions which produce the social dilemma in this country, we will not have an impact upon it.

That is not my statement today. I stand in support of this amendment. This is not the best amendment that could be brought forward on the death penalty, that should be brought.

As I heard the gentleman from Michigan, JOHN CONYERS, and my heart goes out to him, I would just like to say this: Who looks at the victim? Who looks at who are the large number of victims that are suffering due to the types of drugs and murder in this country that have gone unabated?

I would like to now just deviate 1 second and remind the Members of Congress of the words of a book that was written relative to the Speck murders in Chicago. Maybe these words might stick with you today.

Where he had literally and methodically taken eight nurses, put them up in the front of the room, bound them, and one at a time executed them, there was a young Spanish-speaking nurse who hid herself from view and crawled underneath the daybed. She is seeing this whole thing before her eyes and she writes a passage in that book that everybody in this House should deal with today. She says, "God, don't let him hear the pounding of my heart."

I think we have come all the way full circle and I think the country is not only ready, Congress is dealing with the sense of the capital punishment issue today, not just this amendment.

I would just like to offer very strongly that I believe that it is powerful time enough that we put our foot down on large drug trafficking. My drug penalty bill, Controlled Substances Penalty Act, had the capital punishment section in it for anybody who would traffic in more than 10 kilograms of heroin or cocaine.

Folks, we do not produce domestically 1 ounce of cocaine or heroin. I know the issues that come before the House, but I think today we should pass this amendment and let the other body make their decision.

Mr. HUGHES. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I must say that I have seen the legislative process work better.

So far, since this bill has come before us, it seems to me we have—I do not know how much we have landed on the drug traffic, I think we have done violence to common sense, legislative procedure, Gramm-Rudman, although I do not mind that one, and we have taken a shot at several amendments to the Constitution, maybe even the third now that we have put the Armed Forces fully into the law enforcement business. I am not sure that having them quartered in our houses will not be one of the next things that happens.

I wish it were the case that the more indignant Congress acted, the less drugs there would be in America. If that were the correlation, then we would be in great shape. Unfortunately it is not the case.

We have had people in this body talk about the fact that you cannot just solve a problem by throwing money at it. That has not stopped people from voting more and more money, and how people who voted for Gramm-Rudman on the one hand can vote more and more money here, I do not understand.

Similarly, we are told that concerns about procedural fairness or constitutionality—it is almost unseemly to demonstrate those because, after all, we are talking about drugs.

The problem is that the more ferocious we talk does not necessarily mean that the less drugs people take. I am afraid that this bill is becoming the legislative equivalent to crack. It is going to give people a short-term high, but it is going to be dangerous in the long run to the system and expensive to boot.

This is one example of it here in the death penalty. My problem with the death penalty is our inability to find perfect people to serve as juries and

judges. Give me perfect people and I have no problems with the death penalty.

There are people I would gladly see no longer with us in this society, but I have not yet been able to figure out an inerrant process for dealing with them. I have seen too many cases, capital cases, where a death penalty might have been applied where a mistake had been made.

But even beyond that, there seem to be problems with this one.

The gentleman from Ohio [Mr. TRAFICANT] raised some questions about what this requires. I have a problem. On page 19 of the rule, it was mitigating factor 5. This is only a mitigating factor. "The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of the offense would cause or would create a grave risk of causing death."

In other words, it is only a mitigating factor that you could not reasonably have foreseen that your conduct would have caused death. That could only make sense if it contemplates that in some circumstances, because a mitigating factor is not an absolute defense. A mitigating factor is something you take into account. That being in here must mean that circumstances are contemplated in which that could be the case and someone could be executed. That seems to me inexplicable.

It seems contradictory to other things that are here. If that is just a mitigating factor, it must mean that someone, of whom that is true, because mitigating factors are mitigating, but they are not absolute and they get waived. Apparently, it could be true that you could not reasonably have foreseen this and you would still be executed.

□ 1830

It seems to me symptomatic of where we are here. It is true that drugs are a terrible thing. It is not true that simply by the legislative equivalent of a tantrum, we can make drugs go away; and I think we ought to deal with this problem a little bit more seriously.

The gentleman from Ohio [Mr. TRAFICANT], who just spoke, when he talked about the underlying conditions: We have got to do more. As a matter of fact, it is ironic that some of those who were shouting loudly against drugs now voted for programs; Gramm-Rudman, across-the-board cuts, that cut funding for treatment, that cut funding for education, that cut funding for the Drug Enforcement Administration and the FBI.

To a certain extent I suppose this is Members seeking absolution for some of their past acts, and I understand that that is a useful concept; but it is being done in such a helter-skelter fashion; it is being without a sense of

discrimination; and I think it does disservice to the legislative process.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. DIOGUARDI].

Mr. DIOGUARDI. Mr. Chairman, I want to commend the gentleman from Texas [Mr. WRIGHT] and the gentleman from Illinois [Mr. MICHEL], as well as the gentlemen from New York [Mr. RANGEL] and [Mr. GILMAN] of the Select Committee on Narcotics and Drug Abuse, on which I serve, for acting in an effective, bipartisan manner in crafting the Omnibus Drug Act of 1986. This is a good bill and I wholeheartedly support it.

Mr. Chairman, the gentleman from Pennsylvania [Mr. GEKAS] has offered what I think is a commonsense amendment to allow for the death penalty when existing criminal narcotics enterprises commit murder during the course of their illegal activities. I strongly support the death penalty amendment to H.R. 5484 because the people of Westchester County in New York's 20th Congressional District are sick and tired of drug kingpins literally getting away with murder.

Mr. Chairman, let us look the truth straight in the eye: the people running the drug cartels in this country and internationally have no respect for civil activity, no respect for the kids, no respect for humanity and no respect for life. In short, Mr. Chairman, these people are out of touch with reality and the values we hold in this country.

For the House of Representatives to pass an antidrug bill without the Federal death penalty statute attached, we will have failed to deliver to our constituents meaningful action against major narcotics trafficking. The death penalty for activities of this nature is the only thing these high level drug dealers understand.

Mr. Chairman, I stand in support of the Gekas amendment and urge our fellow Members to support this important addition to this excellent piece of antidrug legislation.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I rise in strong opposition to Representative GEKAS' death penalty amendment now before us. There is no question that we all want to get pushers off the streets. Earlier today many of us, myself included, voted for Representative KRAMER's amendment to create unprecedented mandatory life imprisonment sentences for repeat offenders pushing drugs on children. Such votes reflect our deep frustration with the current drug crisis and our commitment to doing all we can to effectively combat it.

If I felt for a moment that the death penalty could help us win the war against drugs, I would consider it. After decades of experience, however, we have no evidence whatsoever, that capital punishment is effective against crime. If we examine the experiences of Michigan and Illinois, for example—States which have similar socioeconomic backgrounds and would therefore be expected to have similar crime rates—Illinois, which allows the death sentence for capital offenses, has historically had a higher rate of such offenses than Michigan, which has never permitted capital punishment under any circumstances.

Let us be perfectly clear on this matter, Michigan and Illinois are not exceptional, they are the rule. There is no study anywhere in the world which has ever produced evidence that capital punishment deters crime. And there is absolutely no indication that the imposition of this sentence against drug offenders will in any way further our battle against drug abuse.

Nor can we forget that capital punishment has always been unevenly applied, with the poor and minorities receiving a disproportionate number of death sentences in this country. For example, in Florida—a State known for its high incidence of drug crimes—between 1976 and 1980, 286 blacks killed whites, and 111 whites killed blacks; yet 48 blacks were sentenced to death and not one white received the death sentence. We must face the fact that extending the death penalty to drug-related crimes would only encourage the discriminatory application of this ultimate penalty.

Finally, the criminal justice system does make mistakes, and, tragically, capital punishment is wholly irreversible. In my own State of Michigan, there are recorded at least six cases of people who were convicted of first degree murder and would have been executed had Michigan had capital punishment on the books, but who were subsequently wholly exonerated of their alleged crimes. What could we possibly have said to the families of these people if they had been executed under their false convictions?

The calls we are hearing for the imposition of the death penalty in this Chamber today reflect a deep frustration with the current situation and a desire to demonstrate effective action to combat it. Tragically, the death penalty would achieve just the opposite; it would create no more than an illusion of effective action. And, in the process, the debate over capital punishment will only direct our attention and resources away from those initiatives that will have an impact on this problem. We must not let this divisive issue divert us from the central provisions of this bill—the drug education and treatment programs, the increased penalties for drug traffickers, the support for more aggressive enforcement of anti-drug laws, and the mandate for improved interdiction activities at our Nation's borders—that can and will make a real difference in our fight against drugs.

Mr. BERMAN. Mr. Chairman, my purpose in opposing this amendment is not to go into lengthy arguments about the reason why I oppose the death penalty or to argue why I think that penalty should be held unconstitutional. It is clear under present Su-

preme Court interpretations that under certain circumstances it is unconstitutional.

I simply say to the body that if you think in this amendment you are passing a death penalty which will stand the present Court's test of constitutionality for a death penalty, you are sadly mistaken.

We just passed a rule that carves out a good-faith exemption to the exclusionary rule. This amendment eliminates all prohibitions on admissibility of evidence, in introducing evidence at the sentencing with respect to aggravation or mitigation. This amendment attempts to foist on the defendant the burden of producing evidence, and demonstrating by a preponderance of that evidence that there are factors in mitigation.

This amendment is not restricted to people who actually kill or attempt to kill or intend to kill; it goes far beyond that. This bill will not be sustained by this Court; it is illusory, and I urge a no vote.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. ROBINSON].

Mr. ROBINSON. Mr. Chairman, I rise in strong support of the Gekas amendment. In fact, this is a happy day for me. I feel like I have died and gone to heaven. I never thought I would see a good bill come out of Judiciary without a discharge petition. Can you believe it, my colleagues? We did not have to get a discharge petition to talk about the death penalty.

I have gone through this bill. I think it is one of the greatest amendments I have ever looked at in my life. We protect the rights of all citizens. We even have a notice when we are going after the death penalty: Hearing before a court or jury. Can you believe that? We are not going to hang them on the street corner.

Proof of aggravating and mitigating factors. The list goes on and on and on and on. We could write an amendment that is this tall; and I will guarantee my colleagues on the Committee on the Judiciary would not agree with it, because they disagree with the death penalty.

Our committee, unfortunately, has turned into a graveyard for good bills. My colleagues will vote for this bill, it will turn into a graveyard for criminals. The death penalty is a deterrent. Let me repeat: the death penalty is a deterrent.

When you fry that drug dealer that caused the death of someone, that person is never going to come back and kill anyone else.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. ROBINSON. I yield to the gentleman.

Mr. HUGHES. Mr. Chairman, I just want to say to the gentleman I think his characterization is extremely

unfair. In the first place, in this legislation, there are seven different provisions including a money laundering bill that is dynamite.

The Subcommittee on Crime which in fact has reported these bills out, has reported about 25 anticrime, anti-drug bills in the last two Congresses.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HUGHES. Mr. Chairman, I yield 30 additional seconds to the gentleman.

Mr. HUGHES. Mr. Chairman, will the gentleman yield further?

Mr. ROBINSON. Mr. Chairman, I am going to respond by stating that the gentleman has his opinion of the Judiciary Committee, I have mine; the truth hurts.

Mr. HUGHES. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I hate to take this time, but the gentleman's characterization is so unfair, because the Committee on the Judiciary, Subcommittee on Crime has reported out some 25 bills including a forfeiture bill that a number of Members today stepped up and praised; a child pornography bill that is one of the strongest that we could possibly create; a whole host of anticrime, antidrug bills including the Justice Assistance Act, providing local law enforcement moneys which is part of this legislation; legislation to try to coordinate the activities—so I think it is an unfair characterization.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Chairman, I rise in strong opposition to the gentleman's amendment. I believe that it is ironic that the House is attempting to attach a death penalty to a bill that's ultimate purpose is to save lives. To my pro-life friends, I say, in a civilized society there is no place for capital punishment. Just as there is no place in a civilized society for abortion. The taking of a life is morally wrong—in every respect. Most non-Communist Western nations have abolished the death penalty. The only countries in the world that have the death penalty for drug trafficking are: Iran, the Republic of Korea, Malaysia, the Philippines, Taiwan, and Turkey. We don't want to add the United States to this list.

I ask my colleagues not to be drawn into the fervor surrounding this amendment. Yes, the drug problem is very serious in this country, and yes, we need to pass equally serious legislation to deal with the problem. But to attach a death penalty to this bill will not advance these efforts. The death sentence is an end in itself. It cannot be reversed if the individual is later found to be innocent. The death penalty does not allow for the fallibility of human beings. The possibility is very

real that an innocent person could be convicted and wrongly sentenced to death. When we legislate, we take the chance of making an error. If we must err, then let us err in favor of life.

The CHAIRMAN. The Chair will inform the gentleman from Pennsylvania [Mr. GEKAS] that he has 8½ minutes remaining; the gentleman from New Jersey [Mr. HUGHES] has 6 minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I rise in strong support of the Gekas amendment. I think there are rare circumstances where the death penalty is justified, and this is one of those circumstances.

I would like to take my colleagues back to what I consider to be the operative provision here. The amendment provides that the death penalty is only applicable if an individual intentionally engages in conduct during the course of a continuing criminal enterprise and thereby knowingly causes a death of any other individual.

Then that individual so engaging shall be subject to the death penalty in accordance with this section.

□ 1840

I think it is important to remember that, while the consumer of narcotics is motivated and driven mainly by his addiction to a particular narcotic, the people, the big dealers who are moving this stuff are driven by a very careful weighing of risks versus profits. Their decisions are business decisions, they are cold, ruthless, deliberate decisions. I have a particular memory of the slaying of one of my constituents, Enrique Camarena, drug enforcement agent in Mexico. It was very clear after a review of this case that Mr. Camarena was killed because he was investigating activities in Guadalajara, close ties between drug dealers and Federal Mexican officials and was causing financial losses to the drug dealers, and because of that they executed him.

It was not an execution of passion, it was not an execution that was motivated by intoxication or by addiction or any of the other things that are affected by the consumers of narcotics, it was a cold-blooded business decision.

If there ever was a right time to apply the death penalty, it would be in cases like this.

I think the fact that—I think it is clear that the major narcotics dealers very carefully weigh the pluses versus the minuses, the assets versus the liabilities, the benefits versus the detriments, and very clearly this death penalty will be a deterrent to their criminal activities.

I commend the gentleman. I very strongly urge my colleagues to vote for this amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. I would be standing before the House, Mr. Chairman, opposing this amendment if it were perfectly drafted; I will admit that.

I oppose the death penalty. I do not think it has a place in a civilized society. I think we, as other civilized western nations, can learn to do without it and to find better ways to seek deterrents without taking human life at the hands of the State.

But I do not think that is the reason that a majority should vote against it today because I know that a majority do not agree on that score. By introduction of this amendment into this debate and into this bill, we have taken a very divisive issue on which people disagree morally, as a matter of good faith, and thrust it as a partisan and divisive issue into the middle of something on which there is broad agreement in this House, that is that we should have a comprehensive and aggressive drug bill.

We should all be able to hold our heads high. We may disagree with one or another amendment, but hold our heads high and vote "yes" for this bill. And when this amendment passes, if it does, it will become very difficult for some of us to vote "yes."

We may be forced to do so against our consciences because we want to make a strong statement about drugs. I would urge the Members of this House to consider that in casting their vote on this amendment.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. The gentleman from Pennsylvania and I have worked for a long time on the issue of the death penalty together in many, many battles so far in this Congress.

Mr. Chairman, I am sure we will be working a long time together to try to get the revisions that we need not only in this particular evening but on other occasions in Federal law dealing with the death penalty for heinous crimes where we really do need to have that kind of punishment and that kind of deterrence.

I do not know why the big hoopla tonight over this particular proposal, though, because this is nothing in terms of what maybe we could have out here and what I wish that we could have out here tonight. We need to revise the Federal laws on the death penalty, giving the death penalty for assassination of the President, for kidnapping, for peacetime espionage on the civilian side to go along with the peacetime espionage death penalty on the military side that my amendment was adopted gave us last year in this Congress. And if we are talking about drugs alone, I for one do not see

why we do not look at having a death penalty for anytime that we have a death that results from a drug dealing by these heavy traffickers when someone dies from the use of those drugs.

Frankly, I do not see why we do not have a death penalty in this situation for real tough traffickers even though you do not have a death that results, although I realize that there may be some court challenges to that particular proposal.

I think we ought to try that.

But all we are doing here tonight, all that is in this amendment that the gentleman from Pennsylvania is asking us to vote on, is to have a death penalty in that very narrow case where you have that organized criminal who is a repeated, continuous criminal who has done a lot of drug dealing and he goes out and intentionally has somebody murdered in the course of his business. That is the only thing we are doing tonight. I would think that this body would overwhelmingly, overwhelmingly adopt the death penalty in this situation. It is inconceivable to me that we would not do that much, when we ought to be doing a lot more.

I will join with my colleague in the future to bring about some of that.

Mr. HUGHES. Mr. Chairman, I yield 2½ minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I rise in opposition to this amendment.

I truly fail to understand the political appeal that the death penalty seems to have for so many Members of this House. But I know one thing, that it has nothing to do with this drug package that we are considering today. For those people that are so concerned about getting a vote on this death penalty today, it has something to do with the politics of the Committee on the Judiciary, and they just waited until the bill came to the floor to give vent to the pent-up feelings that they have. I am begging you do not hold the drug package bill hostage to this vindictiveness.

Let me tell you something: there are other moral grounds why people may object to the death penalty, but I am thoroughly convinced that this bill that we are considering today no one thought of until there was an opportunity to circumvent the hearing process of the Judiciary Committee and just bring it to the floor under the rule that was carefully crafted in order to make certain that we expedite this bill.

Having said that, let me tell you about some of my personal concerns about how other people can completely disregard the right to life after birth.

That is the way that this bill is written, certain juries can consider who will die for one set of facts and an-

other jury might consider who will die for another set of facts. We recognize that people's value of life vary from community to community. What is shocking to me is that some facts were revealed to me that in the State of Florida during the period of 1976 to 1980 there were 286 blacks that killed white folks in the State of Florida, and during this very same period of time there were 111 white folks that killed some black folks in the State of Florida.

When we took a look to examine, when they took a count of who was found eligible or convicted and given the death sentence, the score was: for the whites, zero; for the blacks, 48.

Mr. GEKAS. Mr. Chairman, I reserve the balance of my time. I ask my colleague, the gentleman from New Jersey, if he wishes to close.

Mr. HUGHES. Mr. Chairman, how much time remains on each side at this point?

The CHAIRMAN. The Chair would announce that the gentleman from Pennsylvania [Mr. GEKAS] has 4 minutes remaining; the gentleman from New Jersey [Mr. HUGHES] has 2½ minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, this is a controversial issue, no doubt about that, no doubt that there are strong feelings on both sides. Within my church, the Catholic church, there is a dispute as to the efficacy of the death penalty. I would not support the death penalty if I did not feel it was a deterrent. I am satisfied in my own mind it is a deterrent.

I had an opportunity a number of years ago to speak with Vincent Bugliosi, the assistant district attorney at that time of Los Angeles, perhaps most famous for prosecuting the Manson family. I asked him about the death penalty. And he talked to me about a number of interviews he had with people sitting in prison in California who had opportunity and reason to kill people on the scene. That is, they had opportunity to kill the only witnesses that could have tied them to the crime they had just committed, and they did not do so. He asked them why they did not do so. He said—this is at the time when the death penalty was still real in California—he said, "because we knew we could get the chair for it."

So he was saying he interviewed people who had every reason to murder witnesses.

We have examples now where witnesses are murdered precisely because they could tie people to the crime and they know that there is no death penalty available to the perpetrators of the crime.

This is a very narrowly drawn death penalty. It specifically talks about

those involved in a criminal enterprise, the traffickers who intentionally kill another person. That is what it is talking about. They are the ones who are weighing the pros and cons, who are trying to make an economic decision as well as a decision as to what might befall them if they get caught.

So all we are saying is give us a chance to have a vote. Somebody says there is politics about the Judiciary Committee here. We are caught in a catch-22 situation.

We are refused the opportunity to present a death penalty in the Committee on the Judiciary, we are refused the opportunity to pass it out of committee, and then if we bring it to the floor, we are criticized because we did not follow the committee process or we did not go through the amendment process in the committee, which would have been allowed.

You cannot have it both ways, gentlemen, you cannot have it both ways.

If we are denied the opportunity to have it there, we are going to use the opportunity we have it here, and it does fit into this bill.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. MITCHELL].

Mr. MITCHELL. Mr. Chairman, it is going to be very difficult for me to do this in 1 minute.

Some years ago, Adam Clayton Powell stood in the well of this House and talked about the flow of narcotics in his district, and he was ignored. As a result of that, it spilled out, and now there are subcultures dealing with narcotics.

Many of those subcultures are headed by people under 18 years old. They are professional in their operation; they are the kingpins, they control their turf, and they order people to be killed. They are 18, 17, and 16.

But under this bill age is a mitigating factor and therefore though they commit the same offense as any adult, they cannot be subject to the death penalty.

Let me add very quickly: Under this bill they cannot even be tried as an adult the way this bill is worded. So what you are doing is you are excluding a whole category of offenders who commit murders, exempting them from the death penalty. Someone said earlier that this was one of the happiest days of their life. This is one of the most tragic days of my life, when in our zeal, in our hatred against drugs we trample the Constitution of the United States.

Mr. GEKAS. Mr. Chairman, I have no further requests for time.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] is recognized for 1½ minutes.

Mr. HUGHES. We have on the floor right now about four Republicans

from the Subcommittee on Crime, and I would just like to get their attention because much has been said about the working of the Committee on the Judiciary. The work product in title VI is the work product of the Subcommittee on Crime, which I am proud to chair. If any of the members of the Subcommittee on Crime can step forward and tell us when we have had any bills that were bottled in the Subcommittee on Crime, I wish they would do it now.

The fact of the matter is that has not been the case. We have had a mill, we have turned out 25 anticrime bills. I happen to support the death penalty. I do not agree with most of my colleagues on the Committee on the Judiciary.

One of the last cases I tried as a prosecutor was a capital case

I strongly support the death penalty in selected instances. I would support the death penalty for a druggin. But I want to tell you, I must tell you I feel a little uncomfortable, and I must tell you about this amendment. We had no hearings in my subcommittee. I do not have jurisdiction. It was narrowly drafted. It is going to effect a very narrow class. It is attached to the continuing criminal enterprise statute.

To make it germane, it was tacked on to that statute, where there is drugs involved and where in fact it fits in with those specifics, it would only be a handful of cases, if that, that it would affect.

What I am concerned, and I want to share it with you, I fear that when this bill leaves here, and this is going to carry, that we are going to see a filibuster in the other body, we are going to see the whole drug bill go down the drain.

□ 1855

That is my fear, and you have to weigh that in the balance. That is what I am doing, trying to weigh that.

Mr. GEKAS. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, the gentleman from New Jersey need not feel any sense of guilt about his work as chairman of the Subcommittee on Crime. It is the chairman himself, the gentleman from New Jersey, who told me about the status of the conditions of the Judiciary Committee that from time to time compelled the gentleman to oppose some of my principles, some of my issues, because of what would happen in the Judiciary Committee. I thanked the gentleman for giving me that insight. So the gentleman need not feel guilty about his work on the Subcommittee on Crime.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I am not feeling guilty; I am just making a statement of fact.

Mr. GEKAS. Mr. Chairman, I agree, the gentleman is not guilty.

Mr. Chairman, I close this argument by reading from that letter to which I alluded before and which now is part of the RECORD and which I will be distributing with the help of my colleagues at the doorways at the end of the debate in this issue.

The letter from the Justice Department in which the presidential support and Federal law enforcement endorsement are contained says, and this is the strongest statement we can make:

We feel that House action on this measure will represent the clearest test of the determination of Members to give federal law enforcement authorities the weapons we must have in order to deal effectively with narcotics terrorists and renegade drug traffickers whose contempt for human life defies understanding.

There is a Federal judge who lies dead at the hands of a drug assassin. There are drug law enforcement officers who lie dead at the hands of drug dealers.

The President of the United States supports it; Members of Congress support it; and most importantly of all, the American public demands it. Let us vote "yes" on this issue.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUGHES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 296, noes 112, not voting 23, as follows:

[Roll No. 374]

AYES—296

Alexander	Brown (CO)	Daschle
Anderson	Bruce	Daub
Andrews	Bryant	Davis
Annuizio	Burton (IN)	de la Garza
Anthony	Bustamante	DeLay
Applegate	Byron	Derrick
Archer	Callahan	DeWine
Army	Campbell	Dickinson
Badham	Carper	Dicks
Barnard	Carr	Dingell
Bartlett	Chandler	DioGuardi
Barton	Chapman	Donnelly
Bateman	Chappell	Dorgan (ND)
Beilenson	Cheney	Dorman (CA)
Bennett	Clinger	Dowdy
Bentley	Coats	Dreier
Bereuter	Cobey	Duncan
Bevill	Coble	Durbin
Biaggi	Coelho	Dwyer
Blirakis	Coleman (MO)	Dyson
Bliley	Coleman (TX)	Early
Boehlert	Combest	Eckart (OH)
Boland	Conte	Eckert (NY)
Boner (TN)	Coughlin	Edwards (OK)
Borski	Courter	Emerson
Bosco	Craig	English
Boulter	Crane	Erdreich
Boxer	Daniel	Evans (IA)
Brooks	Dannemeyer	Fascell
Broomfield	Darden	Fawell

Fiedler	Lloyd	Rogers
Fields	Loeffler	Rose
Fish	Lott	Rostenkowski
Flippo	Lowery (CA)	Roth
Florio	Lujan	Rowland (CT)
Foglietta	Lungren	Rowland (GA)
Foley	Mack	Russo
Fowler	MacKay	Saxton
Franklin	Madigan	Schaefer
Frenzel	Manton	Schuetz
Frost	Marlenee	Sensenbrenner
Fuqua	Martin (IL)	Shaw
Gallo	Martin (NY)	Shelby
Gaydos	Martinez	Shumway
Gekas	Mavroules	Shuster
Gibbons	Mazzoli	Siljander
Gilman	McCain	Sisisky
Gingrich	McCandless	Skeen
Glickman	McCloskey	Skelton
Gradison	McCollum	Slatery
Gray (IL)	McCurdy	Slaughter
Gray (PA)	McEwen	Smith (FL)
Green	McGrath	Smith (NE)
Guarini	McKernan	Smith, Denny
Gunderson	McMillan	(OR)
Hall (OH)	Meyers	Smith, Robert
Hall, Ralph	Mica	(NH)
Hammerschmidt	Michel	Smith, Robert
Hansen	Miller (OH)	(OR)
Hatcher	Mokley	Snowe
Hefner	Molinari	Solomon
Hendon	Monson	Spence
Henry	Montgomery	Spratt
Hiller	Moore	St Germain
Hillis	Moorhead	Stallings
Holt	Morrison (WA)	Stangeland
Hopkins	Murphy	Stenholm
Horton	Murtha	Strang
Howard	Myers	Stump
Hubbard	Natcher	Sundquist
Hughes	Neal	Sweeney
Hunter	Nelson	Swindall
Hutto	Nichols	Tallon
Hyde	Nielson	Tauzin
Ireland	Oakar	Taylor
Jeffords	Ortiz	Thomas (CA)
Jenkins	Oxley	Thomas (GA)
Johnson	Packard	Torres
Jones (NC)	Panetta	Torricelli
Jones (OK)	Parris	Trafficant
Jones (TN)	Pashayan	Valentine
Kanjorski	Pease	Vander Jagt
Kaptur	Perkins	Volkmer
Kasich	Petri	Vucanovich
Kemp	Pickle	Walgren
Kindness	Porter	Walker
Kolbe	Price	Watkins
Kolter	Pursell	Whitehurst
Kramer	Quillen	Whitley
Lagomarsino	Ray	Whittaker
Lantos	Regula	Wilson
Latta	Reid	Wolf
Leath (TX)	Richardson	Wright
Lehman (CA)	Ridge	Wyden
Lent	Rinaldo	Wylie
Lewis (CA)	Ritter	Yatron
Lewis (FL)	Roberts	Young (FL)
Lightfoot	Robinson	Young (MO)
Lipinski	Roe	Zschau
Livingston	Roemer	

NOES—112

Akaka	Evans (IL)	LaFalce
Aspin	Fazio	Leach (IA)
Atkins	Feighan	Lehman (FL)
AuCoin	Ford (MI)	Leland
Barnes	Ford (TN)	Levin (MI)
Bates	Frank	Levine (CA)
Bedell	Garcia	Long
Berman	Gejdenson	Lowry (WA)
Boggs	Gonzalez	Luken
Bonior (MI)	Goodling	Lundine
Bonker	Gordon	Matsui
Brown (CA)	Gregg	McHugh
Clay	Hamilton	McKinney
Collins	Hawkins	Mikulski
Cooper	Hayes	Miller (CA)
Coyne	Hertel	Miller (WA)
Crockett	Hoyer	Mineta
Dellums	Jacobs	Mitchell
Dixon	Kastenmeier	Mollohan
Downey	Kennelly	Moody
Dymally	Kildee	Morrison (CT)
Edgar	Klaczka	Mrazek
Edwards (CA)	Kostmayer	Nowak

Oberstar	Seiberling	Vento
Owens	Sharp	Visclosky
Penny	Sikorski	Waldon
Pepper	Smith (IA)	Waxman
Rahall	Smith (NJ)	Weaver
Rangel	Solarz	Weber
Rodino	Staggers	Weiss
Roukema	Stark	Wheat
Roybal	Stokes	Williams
Sabo	Studds	Wirth
Savage	Swift	Wise
Scheuer	Tauke	Wolpe
Schneider	Towns	Yates
Schroeder	Traxler	
Schumer	Udall	

NOT VOTING—23

Ackerman	Grothberg	Schulze
Boucher	Hartnett	Snyder
Breaux	Huckaby	Stratton
Burton (CA)	Markey	Synar
Carney	McDade	Whitten
Chappie	Obey	Wortley
Conyers	Olin	Young (AK)
Gephardt	Rudd	

□ 1915

The Clerk announced the following pair:

On this vote:

Mr. McDade for, with Mr. Conyers against.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WORTLEY. Mr. Speaker, on rollcall No. 374, the Gekas amendment, I was temporarily out of the Chamber and not recorded. Had I been present I would have voted "yea."

The CHAIRMAN. Under the rule, amendment No. 34 to be offered by the gentleman from Florida [Mr. BENNETT] is in order.

AMENDMENT OFFERED BY MR. BENNETT

Mr. BENNETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BENNETT: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneous Provisions

SEC. 671. TRANSFER OF CERTAIN DEPORTABLE ALIENS FROM STATE AND LOCAL PENAL FACILITIES TO FEDERAL PENAL FACILITIES.

Notwithstanding any other provision of law, any alien, upon conviction, who is incarcerated in a State or local penal facility for an offense, including an offense involving controlled substances, the commission of which makes such alien deportable under section 241 of the Immigration and Nationality Act and who at the time of entry into the United States did not possess an immigrant visa, shall, upon written notification by the appropriate State or local official and within thirty days of such notification, be transferred to a penal facility under the authority of the Director of the Bureau of Prisons. The Attorney General shall prescribe such regulations as may be necessary to carry out this section.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment and seek to oppose it.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. BENNETT] will be recognized for 5 minutes and the gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized

for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, if adopted, aliens who enter this country without adequate immigration inspection, who are here because of international failures on the part of our Government, will be placed in Federal prisons.

The focus of this amendment is Cuban illegal aliens who came here during the Muriel boat lift in 1980 and subsequently committed crimes. Most of these crimes go to this sort of relation for their incarceration.

The amendment will put the responsibility where it belongs, on the Federal Government. As things now stand, States are bearing an unfair burden due to the foreign policy of the United States and a failure of the U.S. Government to handle these properly when they come in.

Currently, there are 834 Cuban felons in Florida jails. This is not only a problem from Florida, but it is also a problem for many other States. New York State has 225 and Texas has a large number.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding.

Florida has a very unique situation now. We are the recipient of a large number of Cuban refugees, many of them who are supposed to be deported. Under existing law, they would be subject to deportation, but we are caught with the problem now because, of course, Cuba does not want to take these people back. It puts us in a unique situation which I think needs a law which is unique to our particular area, as well as to areas that are similarly affected.

The Federal Government does have under existing law an obligation to house these people awaiting deportation.

I think what this law does, and I compliment my friend, the gentleman from Florida, for bringing it to the attention of this body, it simply recognizes that fact and in fact mandates the Federal Government to go forward with what I consider to be its responsibility.

Florida under the law, as all of you know, as any State, has no ability to regulate the importation or deportation of people in and out of this country. Because of that we are stuck and we are a victim.

Mr. BENNETT. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding.

I want to just say that I commend the gentleman for this effort. I think this is a very good amendment.

Let me just remind my colleagues about something. Because of Florida's unique geographical position, we were the ones in 1980, at the end of 1979 and 1980, to be flooded with this refugee wave. Many of those are fine people who have taken a strong leadership role in the community. They have done good for the State. They have done good for the community.

The problem is the approximately 20,000 or so who became what was known as the deranged criminal element.

We have paid, the citizens of Florida have paid for that. The Federal Government has refused to pay for their hospitalization when they have problems with medical care and all the other problems we have been paying for, educational problems, the cost of education on us, not the Federal Government.

The one thing we ask you to reimburse us for, in all right, is what it costs us to incarcerate criminals when they commit crimes. It is a Federal responsibility.

Mr. BENNETT. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I think the gentleman's amendment is right on the money with a problem that is extremely serious. We in central Florida have a number of dealers who are illegal, illegally here, who are dealing in crack, which has become one of the most tremendous problems that we have. They get convicted, they sit in our jails, they await appeals and so forth, and the Immigration and Naturalization Service will not do anything about that because of the cost they say is involved to the Federal Government in removing them from the State prisons and putting them in Federal prisons as they await deportation.

Well, my word, whose problem is this? These are illegals who have no business being here in the first place. They are involved with drugs. We need to get them deported. We do not have to wait until they serve their sentence or some appeals are exhausted. They ought to be taken out of the country now.

It is our responsibility. If they are short in funds somewhere, let us move it over there. We will find the funds and worry about that as the time comes; but the pressure needs to be on to get those illegals dealing in crack and cocaine out of this country as fast as we can possibly get them out under the deportation laws as they now exist.

Mr. Chairman, the gentleman's amendment is right on target and I fully support it.

Mr. BENNETT. Mr. Chairman, I yield one-half minute to the gentleman from Florida [Mr. PEPPER].

Mr. PEPPER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just want to say that Florida has 1,900 people in this category who ought to be in Federal prisons who are in our local prisons.

Mr. BENNETT. Mr. Chairman, I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I thought we had our quota of Florida amendments today, but apparently not.

This is a particularly inappropriate amendment. The amendment really is not limited to drug offenders, but is related to all who do not possess immigrant visas in this country and there may be 10,000 to 20,000 such persons. That is the estimate as to the number of aliens who have violated State law and are incarcerated in State or local jails.

Now, with this bill, we will expect to see a lot more people imprisoned in the Federal system.

Rather than help, the gentleman from Florida would dump another 10,000 to 20,000 persons who are convicted, not of a Federal law, but of State laws into the Federal system.

I would like to briefly read a letter made available to us today from the Justice Department, signed by John R. Bolton, Assistant Attorney General. It reads:

This is to express the grave concerns of the Department of Justice with respect to the proposed amendment which would authorize transfer of illegal aliens in State and local penal facilities to the Federal Bureau of Prisons. It simply is not realistic in the light of current conditions. The Federal inmate population today has increased from 24,000 in 1981 to 41,000.

It goes on to say:

Consequently, Federal prisons are now overcrowded by 50 percent.

In short, it would be simply impossible to incarcerate that number of additional offenders—

Referring to 10,000 to 20,000—

in Federal correctional facilities. In short, we believe the amendment regarding detention of aliens, combined with the existing overcrowding and an increased inmate population relating to enhanced sentencing of drug offenders, would precipitate a major crisis in the Federal prison system. Moreover, it could prove counterproductive by resulting in court ordered early releases of Federal inmates.

That is the Justice Department position.

□ 1930

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank my chairman on the committee that deals with the Bureau of Prisons

for yielding, and I join him in opposing, with great respect the offeror of this particular amendment.

If I understand it correctly, it would apply to the universe of those who have entered the United States without an immigrant visa, which means students, which means business visitors, which means as many as 10 million people who enter legally but are not entering with immigrant visas. This is in addition to the very important argument that the gentleman from Wisconsin made, which is the immediate moving over to the Federal prisons of 10,000 to 15,000 to 20,000 prisoners.

I would prefer and I hope that the House might go along with the version within the immigration bill, which we believe will come to the floor this year, which deals with illegal aliens, people who are here illegally. Our bill provides reimbursement to the States for the incarceration costs of illegal aliens, and I think that that is how we ought to tailor it, but will not deal with people who might have entered legally.

Mr. KASTENMEIER. I thank my colleague, and I would add that the Federal system already has 1,862 Cuban Marielitos in Atlanta in a Federal facility, overcrowded and in questionably constitutional conditions, and we would add to that crisis by this amendment.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, as a matter of fact, Federal prisons are 50 percent overcrowded now. If we require more to be transferred from State to Federal prisons, judges will order more Federal prisoners turned loose under the laws against overcrowding, and some of the ones turned loose will be criminals who should not be discharged that early.

The cost of the construction required to house these extra prisoners would be \$1 billion, plus \$300 million per year for personal and costs. That means this Congress would need to increase by one-half of 1 percent this year the amount that has to be cut across the board from all appropriations—nutrition, health, law enforcement, courts, FBI, education, whatever—to make up for this increase, because we do not have the money within the total outlays permitted under Gramm-Rudman.

There was a vote here on July 27 in which 223 Members voted for the Frenzel amendment. Those Members who voted for that amendment voted to cut \$161 million out of some of these same programs that are being increased under this bill. Those who voted on July 27 to cut \$161 million from law enforcement, \$39.5 million from prisons, \$30.4 million from INS,

etc. are talking about adding \$1½ billion today for the same programs they voted to cut.

I think Members should reflect on that inconsistency and the fact that any increase will be provided later by across the board cuts in every discretionary program.

Mr. BENNETT. Mr. Chairman, will the gentleman yield for a correction?

Mr. KASTENMEIER. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, it was implied at least by a previous speaker that these include legal aliens, but that is not true. The language says that these aliens are deportable under the section "who at the time of entry into the United States did not possess an immigrant visa * * *." It specifically says that in the amendment. That is one reason that I had the amendment read, rather than saying forget about it. I wanted everybody to read the words that these are illegal aliens.

Mr. KASTENMEIER. In any event, the Justice Department anticipates that there are 10,000 to 20,000 individuals, convicted not of Federal but of State law, who would be affected, to complicate the situation.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. KASTENMEIER] has expired.

The gentleman from Florida. [Mr. BENNETT] has 30 seconds remaining.

Mr. BENNETT. Mr. Chairman, I do not have much time, so I have to be real brief.

First, these are illegal aliens, and second, they are here today because of improper entry, and so that is the Federal Government's responsibility, and it is the culpability of the Federal Government for not ousting them. They are supposed to oust them under the law, and they have not done so. So they are allowing them to be in State jails.

This is not the responsibility of the State of Florida, the State of New York, or wherever they are; this is the responsibility of the Federal Government. The Federal Government under the law is supposed to exclude them. They are supposed to get them out. They were put into State institutions because of the fact that they did State crimes, but they are illegally here.

Mr. FASCELL. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague from Florida, Mr. BENNETT.

We in Florida have been coping with the consequences of the Mariel boatlift since 1980. Florida's Gov. Bob Graham tells us there are currently 834 Mariels and 1,898 other illegal aliens who are incarcerated in Florida's State and county jails for drug-related crimes. The Mariel prisoners cost the State of Florida \$8 million a year. Only \$1.8 million of that amount is reimbursed by the Justice Department. We receive no reimbursement for the other illegal aliens. This is an injustice to the taxpayers of Florida and other heavily impacted States.

The Bennett amendment is very simple. It states that, upon conviction, any alien incarcerated in State or local prisons for drug or other offenses would be transferred to a Federal Bureau of Prisons facility, within 30 days of notification by State or local authorities. This action is reasonable and treats the taxpayers of Florida and other impacted State far more equitably than they have been treated in years past. Local and State taxpayers should not continue to bear the burden of the criminal justice consequences of the Mariel boatlift. The Federal Government decided to admit these individuals and the Federal Government should be responsible for maintaining convicted Mariels and illegal aliens in Federal prison facilities. I urge my colleagues to vote yes on the Bennett amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. BENNETT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BENNETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 198, noes 206, not voting 27, as follows:

[Roll No. 375]

AYES—198

Akaka	Dreier	Lewis (CA)
Anderson	Durbin	Lewis (FL)
Andrews	Dwyer	Loeffler
Anthony	Dyson	Long
Applegate	Eckart (OH)	Lowery (CA)
Archer	Edwards (OK)	Lowry (WA)
Armey	Emerson	Lujan
Badham	English	Mack
Bartlett	Evans (IL)	MacKay
Barton	Fascell	Manton
Bateman	Fawell	Martin (NY)
Bates	Feighan	McCandless
Bennett	Fiedler	McCloskey
Biaggi	Fields	McCollum
Bilirakis	Fish	McCurdy
Bliley	Florio	McEwen
Boehlert	Foglietta	McGrath
Boggs	Ford (TN)	McKinney
Boland	Fowler	Meyers
Boner (TN)	Frost	Mica
Borski	Fuqua	Mikulski
Boulter	Garcia	Miller (CA)
Boxer	Gaydos	Miller (WA)
Brown (CA)	Gejdenson	Molinari
Brown (CO)	Gekas	Mollohan
Bryant	Gibbons	Moody
Burton (IN)	Gilman	Moore
Bustamante	Gingrich	Morrison (WA)
Callahan	Green	Mrazek
Campbell	Gunderson	Murtha
Carr	Hall, Ralph	Nelson
Chandler	Hatcher	Nichols
Chapman	Hawkins	Nowak
Chappell	Hayes	Oakar
Cheney	Horton	Ortiz
Coelho	Hunter	Owens
Collins	Hutto	Oxley
Combest	Ireland	Packard
Cooper	Johnson	Pashayan
Coughlin	Jones (OK)	Pepper
Courter	Jones (TN)	Pickle
Crane	Kasich	Rahall
Daniel	Kemp	Rangel
Dannemeyer	Kennelly	Ray
Daub	Kleccka	Reid
Davis	Kolbe	Richardson
de la Garza	Kostmayer	Rinaldo
DeLay	LaFalce	Ritter
Dickinson	Lagomarsino	Roberts
DioGuardi	Leath (TX)	Robinson
Dornan (CA)	Lehman (CA)	Roe
Downey	Lehman (FL)	Roemer

Roth	Smith, Robert	Vucanovich
Roukema	(OR)	Waldon
Rowland (CT)	Solarz	Walgren
Rowland (GA)	Solomon	Walker
Russo	Spence	Watkins
Sabo	Stenholm	Weiss
Schaefer	Strang	Wheat
Schneider	Sweeney	Whittaker
Schumer	Swift	Wilson
Shaw	Swindall	Wortley
Skeen	Tauzin	Wright
Smith (FL)	Thomas (CA)	Yatron
Smith (NJ)	Towns	Young (FL)
Smith, Robert	Trafficant	Zschau
(NH)	Valentine	

NOES—206

Alexander	Hamilton	Parris
Annunzio	Hammerschmidt	Pease
Aspin	Hansen	Penny
Atkins	Hefner	Perkins
AuCoin	Hendon	Petri
Barnard	Henry	Porter
Barnes	Hertel	Price
Bedell	Hiler	Pursell
Beilenson	Hillis	Quillen
Bentley	Holt	Regula
Bereuter	Hopkins	Ridge
Berman	Howard	Rodino
Bevill	Hoyer	Rogers
Bonior (MI)	Hubbard	Rose
Bonker	Hughes	Rostenkowski
Bosco	Hyde	Roybal
Brooks	Jacobs	Savage
Broomfield	Jeffords	Saxton
Bruce	Jenkins	Scheuer
Byron	Jones (NC)	Schuetz
Carper	Kanjorski	Sensenbrenner
Clay	Kaptur	Sharp
Clinger	Kastenmeier	Shelby
Coats	Kildee	Shumway
Cobey	Kindness	Shuster
Coble	Kolter	Sikorski
Coleman (MO)	Kramer	Siljander
Coleman (TX)	Lantos	Sisisky
Conte	Latta	Skellton
Conyers	Leach (IA)	Slattery
Coyne	Leland	Slaughter
Craig	Lent	Smith (IA)
Crockett	Levin (MI)	Smith (NE)
Darden	Levine (CA)	Smith, Denny
Daschle	Lightfoot	(OR)
Dellums	Lipinski	Snowe
Derrick	Livingston	Spratt
DeWine	Lloyd	St Germain
Dicks	Lott	Staggers
Dingell	Luken	Stallings
Dixon	Lundine	Stark
Donnelly	Lungren	Stokes
Dorgan (ND)	Madigan	Studds
Dowdy	Marlenee	Stump
Duncan	Martin (IL)	Sundquist
Dymally	Martinez	Tauke
Early	Matsui	Taylor
Eckert (NY)	Mavroules	Thomas (GA)
Edgar	Mazzoli	Torres
Edwards (CA)	McCain	Torricelli
Erdreich	McHugh	Traxler
Evans (IA)	McKernan	Udall
Fazio	McMillan	Vander Jagt
Flippo	Michel	Vento
Foley	Miller (OH)	Visclosky
Ford (MI)	Mineta	Volkmer
Frank	Mitchell	Waxman
Franklin	Moakley	Weaver
Frenzel	Monson	Weber
Gallo	Montgomery	Whitehurst
Glickman	Moorhead	Whitley
Gonzalez	Morrison (CT)	Wirth
Goodling	Murphy	Wise
Gordon	Myers	Wolf
Gradison	Natcher	Wolpe
Gray (IL)	Neal	Wyden
Gray (PA)	Nielson	Wylie
Guarini	Oberstar	Yates
Hall (OH)	Panetta	Young (MO)

NOT VOTING—27

Ackerman	Hartnett	Seiberling
Boucher	Huckaby	Snyder
Breaux	Markay	Stangeland
Burton (CA)	McDade	Stratton
Carney	Obey	Synar
Chapple	Olin	Tallon
Gephardt	Rudd	Whitten
Gregg	Schroeder	Williams
Grotberg	Schulze	Young (AK)

□ 1950

Mr. PRICE changed his vote from "aye" to "no."

Messrs. GINGRICH, RAHALL, BATES, BADHAM, HORTON, EMERSON, LEHMAN, of California, COELHO, and WHEAT, Mrs. BOXER, and Mr. TOWNS changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. RANGEL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. WRIGHT] having assumed the chair, Mr. CARR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes, had come to no resolution thereon.

PERMISSION FOR AMENDMENT NO. 36 TO BE OFFERED BY MR. SMITH OF FLORIDA TO H.R. 5484

Mr. RANGEL. Mr. Speaker, I ask unanimous consent to allow amendment No. 36, scheduled to be offered by the gentleman from New York [Mr. ACKERMAN], as printed in the committee report, to be offered by the gentleman from Florida [Mr. SMITH].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO DELETE SECTION 673 FROM AMENDMENT NO. 36 TO H.R. 5484

Mr. SMITH of Florida. Mr. Speaker, I ask unanimous consent that the last section of amendment No. 36, section 673, be deleted from the amendment upon consideration by the body. This has been requested by the gentleman from New York [Mr. ACKERMAN].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. HUGHES. Mr. Speaker, I reserve the right to object, and I will not object.

It is my understanding that the sense-of-the-Congress provisions of this amendment are being dropped,

dealing with the Attorney General and FBI and Immigration and Naturalization Service, cooperating and utilizing the existing nationwide computer capability. Is that what the gentleman is proposing?

I yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Speaker, that is what we are proposing. The FBI had a problem with the use of the NCIC in certain instances, and we have agreed to work with them, and the gentleman from New York [Mr. ACKERMAN] has requested that this section be dropped.

Mr. HUGHES. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

OMNIBUS DRUG ENFORCEMENT EDUCATION, AND CONTROL ACT OF 1986

The SPEAKER pro tempore. Pursuant to House Resolution 541 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5484.

□ 1956

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes, with Mr. CARR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, consideration of amendment No. 34 had been completed. Amendment No. 35 is in order at this time.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCollum: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneous Provisions

SEC. 671. DESTRUCTION OF SEIZED CONTROLLED SUBSTANCES.

Section 551(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended—

(1) by inserting "(1)" after "(f)",

(2) by inserting "or II" after "schedule I" in each place it appears, and

(3) by inserting at the end thereof the following:

"(2) All controlled substances in schedule I or II that are seized for violation of this title may be destroyed as soon as possible subsequent to seizure after being photographed, weighed, and representatively sampled for evidentiary purposes."

Mr. McCOLLUM (during the reading). Mr. Chairman, I asked unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. McCOLLUM] will be recognized for 5 minutes and a Member opposed will be recognized for 5 minutes.

The Chairman recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, what this amendment does, and I believe we can resolve this in a moment with a colloquy with the chairman of my subcommittee; what this amendment does is to clarify that seized controlled substances can be destroyed before trial if the evidence is going forward and all of the parties involved on the prosecution and the court agree to do that.

□ 2000

I think it is a very important thing that the Government have control of that fact. They do not quite now.

All we need to try a case is a small sample of a substance whether it be cocaine, marijuana, heroin, some other drug that we are trying a drug case on. Unfortunately, a lot of people dispute that fact in terms of what the law allows them to destroy and to not destroy. We are seeing stockpiled in our country huge quantities of narcotics that are really quite dangerous to have stored in this large amount in certain locations within the Government. Right now what we are attempting to do in this amendment is to clarify the law to make sure that anything more than the necessary small quantity for use at trial, can go ahead and be destroyed while we are awaiting trial, if they are controlled substances in class I or class II.

The summary forfeiture and expedient destruction of schedule I and schedule II substances authorized by the amendment would substantially alleviate a big problem by DEA. The indefinite storage of these substances in vaults at present is occurring; it constitutes a security risk of a critical portion of these drugs set-aside, and it is an enormous cost to the taxpayers.

We also are clarifying which ones from the schedules are included. I do not think this is controversial. We need the authority.

I would be glad, if the gentleman would seek it, to yield to my distin-

guished chairman of the Subcommittee on Crime, Mr. HUGHES, so that we can have a colloquy and clarify this amendment.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, this is a good amendment. We have so much contraband stored it is just unimaginable. It is costing us millions of dollars in security, it is being stolen, pilfered. We do not really have to keep all this contraband in bulk. It varies from vicinage to vicinage, it depends upon local conditions, local attitude with regard to what is kept and what is destroyed. It makes sense to destroy it. The only question I have is I would assume when we talk in terms of representative sample we are talking about a sufficient quantity that we can do a real analysis, if need be, if there is another trial, for instance, both by the prosecution and the defense, so that we have sufficient quantities of the contraband that would serve as well in the event of a retrial.

Mr. McCOLLUM. The gentleman is absolutely correct, that is the intent of the author of this amendment, and we would not want to do anything less.

Mr. HUGHES. I would urge my colleagues to support the amendment.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield to me?

Mr. McCOLLUM. I would be glad to yield to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman from Florida. I think this is a good amendment. It will save us a great deal in the form of storage, and as the gentleman well knows, this has become a tremendous problem as far as the volume of contraband.

So it definitely is an excellent amendment, and I certainly want to commend him.

Mr. McCOLLUM. I thank the gentleman, and I will retire at this point asking my colleagues to vote for the amendment. I do not think it is a problem, but it is an opportunity to correct a flaw.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there a Member opposed to the amendment? If not, all time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment No. 36 to be offered by the gentleman from New York [Mr. ACKERMAN] will, by the unanimous-consent agreement previously entered

into, be offered by the gentleman from Florida [Mr. SMITH].

AMENDMENT OFFERED BY MR. SMITH OF FLORIDA

Mr. SMITH of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follow:

Amendment offered by Mr. SMITH of Florida: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneous Provisions

SEC. 671. REQUIRING PROMPT INS RESPONSE TO INQUIRIES OF LOCAL OFFICIALS CONCERNING ILLEGAL ALIENS ARRESTED FOR DRUG-RELATED VIOLATIONS.

Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) In the case of an alien who is arrested by a Federal, State, or local law enforcement official for a violation of any law relating to controlled substances, if the official (or another official)—

"(1) has reason to believe that the alien may not have been lawfully admitted to the United States or otherwise is not lawfully present in the United States,

"(2) expeditiously informs an appropriate officer or employee of the Service authorized and designated by the Attorney General of the arrest and of facts concerning the status of the alien, and

"(3) requests the Service to determine promptly whether or not to issue a detainer to detain the alien, the officer or employee of the Service shall promptly determine whether or not to issue such a detainer. If such a detainer is issued and the alien is not otherwise detained by Federal, State, or local officials, the Attorney General shall effectively and expeditiously take custody of the alien."

SEC. 672. PILOT PROGRAM TO IMPROVE INS RESPONSE TIME TO LOCAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—From the sums appropriated to carry out this Act, the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the computer capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject to criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division.

(b) EVALUATION.—At the end of the first year of the pilot program, the Attorney General shall provide for an evaluation of the effectiveness of the program and shall report to Congress on such evaluation and on whether the pilot program should be extended or expanded.

Mr. SMITH of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SMITH of Florida. Mr. Chairman, let me just say that the gentleman from New York [Mr. ACKERMAN] is not here to offer his own amendment because of a family matter which necessitated his return to his home district.

Please allow me to read into the RECORD the statement of the author of the amendment.

Mr. Chairman, I rise today to introduce an amendment to the omnibus drug bill which will further close the gap in our Nation's defenses against narcotics.

I was a teacher before being given the privilege to serve in the United States Congress. I have seen the effects narcotics have on young minds and the waste of future potential at the hands of pushers.

Often, those dealing drugs have entered this country illegally and show absolutely no fear of United States law. This is because those agencies charged with handling this particular problem are presently incapable of meeting the challenge.

My amendment will help to alleviate this problem. It serves to enhance the performance of the Immigration and Naturalization Service's Investigative Branch in its battle against illegal aliens who use our streets to peddle death.

It addresses local law enforcement complaints concerning the INS' inability to issue a judgement on a suspect's citizenship status fast enough to allow the authorities to continue to detain him.

In a one month period in New York City, 724 cases involving crimes of varying degree were referred to the INS's District Office for status verification. After 8 weeks, 286 of these were dismissed by the District Office as not being serious enough to bother with and 325 were still awaiting initial action.

Obviously, the suspect cannot be held indefinitely, pending the issuance of an INS detainer. Quite often, an individual who is eventually found to have entered the United States illegally has already been set free. But you can rest assured that he will be back in business somewhere else and ruining somebody else's future.

My amendment requires the INS to respond quickly to an inquiry by a local law enforcement agency and make a determination as to the status of the suspect. If the individual is determined to be an illegal alien the INS must take the necessary actions to detain the suspect and process the case.

I, with the assistance of the distinguished Majority Leader, propose a pilot program to establish or improve the computer capabilities of the local INS offices and the local law enforcement agencies. According to the General Accounting Office, such a program would immediately reduce by 30 percent those suspects prematurely released for lack of identification.

The program will run in four municipalities, chosen by the Attorney General with special consideration for larger cities with large immigrant populations and those cities which are located near or on national borders. At the end of a one year period, the Attorney General shall report to Congress on the effectiveness of the program.

The effort underway is tantamount to a life or death struggle for the health of our Nation. All of the provisions in the Omnibus legislation address a crucial area in this battle. My amendment ensures that fewer of the guilty persons slip through the cracks

in the system. I urge the acceptance of this amendment and commend all of my colleagues who have chosen to take a leading role in this campaign.

Mr. Chairman, I rise in support of the amendment being offered by the gentleman from New York [Mr. ACKERMAN].

I had drafted a similar amendment that seeks to accomplish the same thing: Ensuring that aliens convicted of drug crimes are deported as expeditiously as possible.

I want to remind the committee of action that Congress took just 1 year ago. Under section 132 of the State Department authorization, the National Drug Enforcement Policy Board was to agree on uniform guidelines that would permit the sharing of information on foreign drug traffickers to ensure that they are not permitted to legally enter the United States. The State Department was to share with DEA and Customs information on all drug arrests of foreign nationals in the United States so that information may be communicated to our embassies that issue visas.

Under the law, the Foreign Affairs Committee should have received 7 months ago a report on steps taken to implement that section. As chairman of the Foreign Affairs Committee's Task Force on International Narcotics Control, I still am waiting for this report.

The lack of internal communication within the Justice Department and the lack of coordination by the Drug Enforcement Policy Board disturb me greatly. How can we expect a coordinated policy when the Department of Justice itself is so disorganized?

I use this opportunity to remind the appropriate departments and agencies of their obligation under the law. We should already have had in place an information sharing program on alien drug traffickers. The footdragging must stop.

I urge the adoption of the Ackerman amendment.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I am happy to yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

I want to congratulate the gentleman. It is a good amendment. If you wonder about the tie-in between illegal aliens and drug trafficking what that tie-in is, take a look at the report of the INS to the Senate Appropriations Committee. A survey of southern California law enforcement agencies reports that 50 to 80 percent of those arrested for selling crack are believed to be illegal aliens.

So obviously there is a very definite tie-in.

This is a good amendment, and I urge my colleagues to support it.

Mr. SMITH of Florida. Mr. Chairman, reclaiming the balance of my time, let me just say this: we have so many severe problems in this country that it is very difficult to do something about. This one is a problem that we can do something about. With the sophisticated computer technology that we have today, it is an absolute crime that we cannot get information on suspected drug dealers who are illegal aliens from the INS. We are waiting at the Foreign Affairs Committee for 7 months for a report that was mandated to be filed by the INS on the upgrading of this equipment. This is a very good amendment. I commend Mr. ACKERMAN. I joined him before in offering it; I join him now in offering it, and I urge my colleagues to support this amendment.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding. I appreciate what the gentleman said. I certainly have no philosophic problem with what the gentleman offers, but I would just ask the gentleman a question.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SMITH] has expired.

Is there any Member who opposes the amendment?

Mr. LUNGREN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California [Mr. LUNGREN] is recognized for 5 minutes in opposition to the amendment.

Mr. LUNGREN. Mr. Chairman, I am happy to yield to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I appreciate my friend from California taking the time. Because I think it is important to at least talk about this amendment. Whether we have a vote on it is conjectural. But I would just, using my friend's time, direct a question to my friend from Florida.

I think it is well and good to suggest that the INS is taking time, too much time in responding to the inquiries of State and local law enforcement officials, and as you say from your vantage point on the Foreign Affairs Committee, taking too much time to produce a report.

But the reason they are taking too much time is they do not have the people, they do not have the money, they do not have the resources.

So I may respectfully ask, how does the Ackerman amendment, which imposes additional responsibilities on the INS, deal with their lack of resources? Therefore, does it give them resources to deal with the problem?

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Florida.

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Chairman, the chairman of the Subcommittee on Immigration, on which I have the pleasure to serve, and I have great admiration for him, he is well aware of the answer. We have not put in the additional resources. This only creates a pilot program to see if within the current confines of their budgetary limitations and with the personnel they have on hand they can create a system. If that system is viable, I know the chairman, joined by me and many others, will be there to once again do what this administration has frankly not been really willing to do, and that is put significant resources into the INS to do the job. I urge my colleagues to remember that if this pilot program works, that is what we intend to do.

Mr. MAZZOLI. Would my friend from California yield?

Mr. LUNGREN. I would yield again to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I appreciate what my friend says about the pilot program. I think the Ackerman amendment has another section which requires the INS to take into immediate custody all aliens who are here illegally, unless those State or local law enforcement officials have a detainer on that illegal alien. I think the GAO report, which I have had a chance to glance at, dealing with the city of New York suggests that under the current situation the INS does not have the people to allow them to make these immediate investigations of the bona fides of the individuals. Yet the Ackerman amendment demands that that be done. I wondered how that is going to be handled, and where the resources will come from.

Mr. LUNGREN. Let me reclaim my time just to say that I do oppose the amendment. I am not going to call for a vote on it. The gentleman from Florida [Mr. SMITH] came over and asked if I would not object to the unanimous consent request to offer the amendment because of the circumstances of the author. I acceded to that demand although I must say I do have some problems with it for the very same reasons established by the chairman of our subcommittee, the gentleman from Kentucky.

I think we would all like this to be done. But the language in here is mandatory. It gives no discretion to the Attorney General or to the Commissioner of the INS. It does not say "if you have the resources, do it." It says, "It shall be done," which suggests to me that with the limited resources they have now they are going to have to take them from somewhere else.

I will tell you in my own area of Los Angeles for the present time those of

us who are Members of Congress making an inquiry of the INS of the Los Angeles office get to call them once every 62 days. On the 62d day they will answer my inquiries. Any other time a constituent says to me, "Can you help me with a problem?" I have to say, "Yes, wait until my 62d day and I can inquire." That is just one manifestation of the fact they do not have enough personnel.

I would like to say that this administration has put more increased resources into the INS than any previous administration but in spite of that we still do not have enough. It is a worthy goal. I do not think it is totally practical, but I do not think this is the place to fight it out. We will probably work it out in conference.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I would be happy to yield to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Chairman, I understand the gentleman's concerns about that.

Let me point out two things: one, the INS investigations division has been slashed from 970 positions in 1976 down to only 690 positions this year.

The alien problem, especially as it relates to drug smuggling, deserves a much higher priority than it has.

Mr. LUNGREN. Reclaiming my time—

Mr. SMITH of Florida. If the gentleman would just allow me to finish—

Mr. LUNGREN. Let me say in response that the administration did take into account some of the Grace Commission recommendations to take some of the administrative positions out.

□ 2015

In addition, we added approximately 850 new personnel, and by eliminating about 150 of the administrative side, a total of 1,000 new personnel, all most all in border patrol. I understand that we need more in the INS.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Chairman, the gentleman is well aware that the Congress has been fully supportive of the effort to put more into the INS, because we know that that will help us clear some of these problems.

We are asking now that we start a program. The mere fact that we do not have all of the resources that we need should not prevent us from starting down the road to cure a problem that we know exists.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SMITH].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment No. 37 is in order.

AMENDMENT OFFERED BY MR. DAUB

Mr. DAUB. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAUB: Page 224, after line 19, insert the following:

SEC. 702. LIMITATION ON REISSUANCE OF AIRMAN CERTIFICATE.

(a) IN GENERAL.—Paragraph (2) of section 602(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1422(b)(2)) is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) Except as provided in subparagraph (B), the Administrator shall not issue an airman certificate to any person whose airman certificate has been revoked under subsection (c) of section 609 of this title."

(b) CONFORMING AMENDMENT.—Subparagraph (C) of section 602(b) of the Federal Aviation Act of 1958 is redesignated as subparagraph (B).

Page 224, line 20, strike out "702" and insert in lieu thereof "703".

Page 226, line 9, strike out "703" and insert in lieu thereof "704".

Page 230, line 1, strike out "704" and insert in lieu thereof "705".

Mr. DAUB (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Nebraska [Mr. DAUB] will be recognized for 5 minutes.

Mr. DAUB. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will not take all of the time, but I do want to bring to the attention of my colleagues this amendment in very clear form.

What the pilots do who have a license to fly in the United States, if they are involved in the trafficking into this country any of the drugs that we have talked a long time about yesterday and today, is, in my judgment, flying death not to a corn field or a wheat field somewhere, not to an aviation airstrip somewhere, but these pilots are flying death into the school yards of America. And if they get caught, they might get their license suspended for 1 year to 5 years. And if they are put into prison and rehabilitated citizens and they get out, they can get that license to fly in America back again.

I think, particularly considering the fact that we are now going to employ the Army on our borders, use evidence obtained without a warrant in a court of law, imprison for life those over 21 who have been convicted for a second time of selling drugs to children or near a school, and consider the death penalty, that this is one other additional step, certainly not nearly as drastic one might argue as putting

that pilot in jail for life, that we could do to improve this bill.

It certainly conforms with the procedural standards that are now contained within Public Law 98-499 that was reported well and is in the law now, as amended in 1984 by the Public Works and Transportation Committee.

I would hope that my colleagues would agree to this amendment. I think it improves the bill, and I ask for a supportive vote by my colleagues.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. DAUB. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I would like to commend the gentleman for his amendment.

I remember 4 or 5 years ago one of the first visits I made to an air support branch of the Customs Service. They made the point to me that is one thing to take away the airplane; it is something else if we can finally take away the license.

I think there is no question that any person who uses that license to go out and fly loads of drugs into this Nation, I think he deserves to have his license jerked and jerked permanently.

I think the bottom line comes down to the fact that there is a lot of temptation out there. I remember a few years ago, and I suppose it is probably even more today, that the price that a pilot could get flying a load from Colombia into south Florida was around \$150,000. And for someone who may be an out-of-work airline pilot or something of that sort, he may be tempted by that. If he knows that he is risking the loss of that license entirely, I think he will think long and hard before he runs that risk. So I commend the gentleman.

Mr. DAUB. Mr. Chairman, I want to thank the gentleman from Oklahoma. [Mr. ENGLISH]. I know of no one who has labored harder on this subject in his subcommittee for over 5 years now to elevate the body's awareness and to bring these matters to our attention. I thank the gentleman for his support.

Mr. Chairman, I reserve the balance of my time.

Mr. MINETA. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. MINETA] is recognized for 5 minutes.

Mr. MINETA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman I rise in opposition to the amendment offered by my distinguished colleague from Nebraska. I admit that I rise opposed somewhat reluctantly because generally I support efforts to increase the penalties for drug smuggling. But in this particular area of aviation law, as the gentleman who chairs the Aviation Subcommittee I believe the effort to increase penalties could very well be counterproductive in the war on drugs.

The amendment would require that if a person were convicted of an aviation drug smuggling offense, that person would be permanently banned for holding an airman's certificate. Present law bans the issuance of an airman's certificate for up to 5 years if a person is convicted of a drug smuggling offense. This penalty was established by the Congress in the Aviation Drug Smuggling Act just 2 years ago. At that time, we considered whether a lifetime ban was preferable, and we decided it was not.

The principle program with the amendment is that it would remove important prosecutorial and administrative discretion. When law enforcement authorities have caught a pilot involved in drug smuggling, a mandatory lifetime revocation of that pilot's license would greatly reduce the flexibility of the authorities to induce the pilot to present evidence against other, more important drug smugglers. So with this amendment we may be foregoing significant opportunities to catch the bigger fish.

Under present law, the FAA Administrator is explicitly authorized to reduce the penalty of revocation if he or she deems it in the public interest. This amendment would remove that authority and require that the full penalty be imposed even when it was counter to the public interest and the fight against drug smuggling.

I am also opposed to the amendment because it belies the concept of possible rehabilitation of a drug violator by making an important penalty a lifetime penalty. I believe we need to be tough on pilots involved in smuggling. But if we take away a pilot's license for life, we should be clear that we are not taking away his or her unique skills, and a pilot would continue to possess these skills after a jail term. But that pilot, without a pilot's license, could only use his or her skills in an illegitimate or illegal manner. So with the amendment we would be foreclosing the opportunity of someone to use his or her skills ever again in a legitimate way providing a strong incentive to continue in illegal drug smuggling after they are back out on the street. Again, with this amendment we would only take away their license, not their skills. They could continue to use these skills without a license, meaning they could only be used in an illegitimate or illegal manner.

Again, I support strong drug penalties, but we need to be careful that in this effort, we do not actually make the situation worse or take away important law enforcement tools.

I urge my colleagues to vote no on this amendment.

Mr. MINETA. Mr. Chairman, I reserve the balance of my time.

Mr. DAUB. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I rise in support of this amendment.

I realize that the penalty appears to be harsh, but I cannot think of any traffickers who are more difficult to apprehend than the aviators. Certainly most of the contraband, the drugs, coming into the United States is coming by air.

It just seems to me that if airmen want to resist the temptation of the millions of dollars that are out there, we have to find something of value that he or she would treasure, and I cannot think of anything more than their certificate to fly.

It seems to me that if we are looking for cooperation once arrested, that these people besides having a revocation of license, should be facing a substantial jail term. This incentive not to go to jail should be enough for them to cooperate in terms, as the chairman of the subcommittee said, getting bigger fish. But I cannot think of anything that is too harsh for those people who violate the privilege of flying and are bringing drugs knowingly into the United States.

□ 2025

Mr. DAUB. Mr. Chairman, I yield myself the remainder of my time.

I thank my good friend for his supportive remarks.

I want to assure my good friend and person with whom I served on the Public Works and Transportation Committee, and I know of his diligent work on this particular section of the law, that the prosecutor still has the discretion and the FAA Administrator still has the discretion to use the pilot, if they seek to get him to confess and help them to get the names of those higher up in a trafficking scheme, still has the discretion not to bring suit and/or not to prosecute.

The other side of it, procedurally, is that in fact the license is not actually taken away for a lifetime until a conviction does occur. So I think there is plenty of room to protect the gentleman's concerns. I do understand them and appreciate them being raised and made a part of the record.

With that, Mr. Chairman, I want to urge my colleagues to adopt this amendment. I think it is an important and appropriate step.

Mr. Chairman, I yield back the balance of my time.

Mr. MINETA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Nebraska [Mr. DAUB].

The amendment was agreed to.

The CHAIRMAN. Under the rule, the next amendment in order is amendment No. 38.

AMENDMENT OFFERED BY MR. CHANDLER

Mr. CHANDLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHANDLER:

Page 231, line 14, insert "and" after the semicolon.

Page 231, line 16, strike out the semicolon and insert in lieu thereof a period.

Page 231, strike out lines 17 through 24.

Page 233, line 23, insert "and" after the semicolon.

Page 233, line 25, strike out "; and" and insert in lieu thereof a period.

Page 234, strike out lines 1 through 2.

Page 245, strike out line 24 and all that follows through page 248, line 4 (and redesignate the succeeding section accordingly).

Mr. CHANDLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD, and I also ask unanimous consent that the record show that this amendment is being offered by myself and the gentleman from Minnesota [Mr. PENNY].

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. CHANDLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is to title VIII of the education section of the bill. I want to say from the outset this is not a cut in funding. It is not a cut whatsoever. What the bill does is it mandates that 10 percent of the funds that are allocated for education, 10 percent of those funds would be devoted to grants for higher education institutions. This amendment strikes that requirement. That is all that it does. It simply says that the Secretary of Education does not have to devote 10 percent of whatever funds are appropriated eventually to higher education.

I want to emphasize that we are dealing here with very limited funds. Three hundred and fifty million dollars are authorized. I think that it is very likely it will be less than that that is appropriated. We ought to target those resources where it will do the most good.

When I was home for the recess, I conducted a meeting with law enforcement officers, educators, people who are experts in treatment and the overwhelming response that they gave me to where would we be wisest to devote our resources, the limited resources that will be made available in this bill was to the young. In fact, they said, "If you are dealing with junior and high school, let alone college, you are probably too late."

The spirit of this amendment is to address that problem and to say let us take those precious resources that we

do have and spend them where they will do the most good.

Mr. Chairman, the amendment the gentleman from Minnesota and I are offering to title VIII, the education title to H.R. 5484, would delete from the bill the requirement that the Secretary of Education award to institutions of higher education 10 percent of the funds available each year.

It is my view that the funds authorized under this title should be reserved for drug education and prevention efforts at the elementary and secondary level. The U.S. Department of Education, researchers, and school officials are indicating that attitudes toward drugs are being developed at an increasingly early age. Initial experiences with drugs, such as marijuana, are also taking place at a very early age.

A 1983 Weekly Reader survey showed that 25 percent of fourth graders reported pressure to try alcohol and marijuana and 50 percent of seventh graders reported pressure to try marijuana. Further the Education Department indicates that between 1984 and 1985 61 percent of high school seniors have at least tried an illicit drug, with cocaine reportedly used at least once in the last year by 13 percent of 1985 seniors. The percent of seniors reporting that they used cocaine in the last year more than doubled between 1975 and 1985.

I refer to these statistics for the purpose of focusing the attention of this body on the need to be judicious in the expenditure of funds under title VIII of this legislation. I believe we should target the drug education and prevention moneys where they can be most effective—that is with the younger students. It is at this level where a truly lasting impact can be made on our youngsters—while they are still developing habits and attitudes toward all aspects of life.

This, of course, does not prevent postsecondary institutions from establishing their own policies and controls to establish and maintain an antidrug learning environment. Many already have such policies and controls. Others are in the process of developing them.

Finally, I do not believe that setting aside 10 percent of the available education funds would be likely to have an impact upon college and university students. A stricter enforcement of existing policies at the postsecondary level could, however, have a major impact. Students at this level are much more likely to understand the consequences of their actions than those in the elementary and secondary schools.

Again, this amendment is designed to better target the funds available in the education title to this bill. Let's do a thorough job of educating our children about drugs at an early age—when it can make a difference. This amendment would not reduce authorization levels, but would simply eliminate the 10 percent requirement for postsecondary schools.

I urge the adoption of this bipartisan amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today to encourage my colleagues to support the Chandler-Penny amendment.

The amendment addresses the crucial need to direct drug education programs where they can do the most good: among our younger students. It accomplishes this by omitting from the bill the requirement that 10 percent of the funds for education programs be awarded to postsecondary schools.

Mr. Chairman, during the Education and Labor Committee's consideration of the bill, several members—myself included—raised the concern that the proper focus of education efforts to stem our drug problem is among younger students not college and university students.

Study after study shows that drug use is increasingly a problem in the primary school grades. A recent Department of Education study indicates that between 1984 and 1985 61 percent of high school seniors have at least tried an illicit drug, with cocaine reportedly used at least once by 13 percent of 1985 seniors. The percent of seniors reporting that they used cocaine more than doubled between 1975 and 1985. It is even more disturbing to me that a 1983 Weekly Reader study found that 25 percent of fourth graders have used or have felt peer pressure to try marijuana.

I refer to these statistics for the purpose of focusing the attention of the House on the need to use those funds provided for in the bill in an effective manner. We should target drug education and prevention funding where prevention has its best chance—that is with the younger students. It is at the elementary and secondary school level where a truly lasting impact can be made in our effort to get our children to say no to drugs.

Mr. Chairman, I do not believe that setting aside 10 percent of the education funds in this bill would have an impact on college and university students. First of all, it will not reach that many college campuses. Ten percent of the money set aside here amounts to a very small allocation, that will then be put out on a grant basis to campuses that do some good grant writing. But it will not reach very many many campuses across the country and it means that the vast majority of our campuses in America will not get access to these few dollars anyhow.

In addition, we have already encouraged in a variety of ways our colleges and our universities to more strictly enforce antidrug policies, and there is some evidence that those policies are now working. In fact, this afternoon, in the Higher Education Conference Committee, we approved language that will make it a requirement for campuses to certify that they have

drug education and prevention programs in place in order for them to continue to participate in student financial aid programs. Moreover, college and university students are much more likely to understand the consequences of their actions than those in the elementary and secondary schools.

The Chandler-Penny amendment will not—let me emphasize, Mr. Chairman, will not—prevent any postsecondary institution from developing their own policies and controls to maintain an antidrug learning environment. Many already have such policies and controls. Other schools are in the process of developing them.

Furthermore, Mr. Chairman, I remind my colleagues that preservice and inservice training of teachers and others in drug abuse education is an authorized activity at the State and local levels under the State grant program created in the bill. Nothing in this amendment will affect those funds.

Members, this amendment is only designed to better target the limited drug abuse prevention funds in the bill. Let's insure that at an early age our young children are educated on the horrors of drugs—when it can make a difference.

Mr. Chairman, I urge adoption of the Chandler-Penny amendment.

Mr. HAWKINS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. HAWKINS] is recognized for 5 minutes.

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think the membership should know precisely what this amendment does. The Chandler-Penny amendment eliminates the allocation of funds to institutions of higher education to provide preservice and inservice teacher instruction, instruction for law enforcement officials, instruction to community leaders, parents, and Government officials.

This is a clear instance of ignoring the need for this kind of expertise and Mr. CHANDLER's amendment would exclude this use of funds under the bill. It is simply not enough to rely on athletes and entertainment personalities to influence our youth.

They also need effective teaching which demonstrates that drugs are harmful.

□ 2035

The Chandler amendment would also eliminate funds for programs for drug abuse education for college students. While many students are exposed to drugs before college, others are introduced to them in college. These college students, like elementary and high school students, deserve attention in this particular proposal.

Title VIII in this bill, as reported out of the Committee on Education and Labor, is supported by the American Council on Education, the American Association of Community and Junior Colleges, the American Association of State Colleges and Universities, the Association of American Universities, the Association of Catholic Colleges and Universities, the Association of Jesuit Colleges and Universities, the Association of Urban Universities, the Council of Independent Colleges, the National Association for Equal Opportunity in Higher Education, the National Association of Schools and Colleges of the United Methodist Church, and the National Association of State Universities.

Now, it seems to me, Mr. Chairman, that if this is a declaration of war, there should be no reason why we should exempt institutions of higher education from the mobilization.

I think it is widely supported. It was included in the proposal out of the committee by a strong vote of that committee on behalf of these institutions.

Mr. Chairman, I urge defeat of the Chandler amendment.

Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I rise in strong opposition to this amendment. I think it is ill-conceived and I am a little disappointed in the Members who offered it, because it is totally inconsistent with my experience with them to date. I really feel that if we had an opportunity to discuss it before they introduced it, we might well have prevailed upon them.

I should call the attention of the House to the fact that just this afternoon in the conference between the House and the Senate and the reauthorization of all the higher education programs, we accepted an amendment by the gentleman from Missouri [Mr. COLEMAN] which requires that every college or university or institution receiving any aid under higher education in its agreement with the Department of Education, that as a condition precedent to students at that campus receiving any aid or the college itself receiving any aid, they will represent to the Department that they have in place on that campus a campuswide comprehensive drug prevention program.

Now here we are just a few hours later on the floor of the House saying we are putting in the higher education bill a requirement that you will have on every campus in this country a drug program, but we do not think that the college campus is the proper place to attack the drug problem when it gets to be 9 o'clock in the evening.

Now, that is totally inconsistent. The vote on the House side today in that conference was virtually unani-

mous for the amendment of the gentleman from Missouri [Mr. COLEMAN]. The Senate accepted it by unanimous action. It will be in the law and we will be telling every college in the country, even those who do not believe that they presently a drug problem, that they have got to become engaged in drug education, that that is a condition for their continued eligibility for Federal aid.

Then this evening we have the proponents of this amendment saying the college campus is the wrong place to be teaching about drugs. How do you teach drug education teachers who are going to go into the schools that they are talking about here? Where are they taught? They are not taught in the elementary and secondary schools. They are taught on the college campus.

How do you teach law enforcement people to conduct courses in drug use prevention? You take them to workshops on college campuses.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Washington [Mr. CHANDLER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FORD of Michigan. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 231, not voting 30, as follows:

[Roll No. 376]

AYES—170

Applegate	Emerson	Loeffler
Archer	Fawell	Lott
Armey	Fazio	Lowery (CA)
Badham	Feighan	Lujan
Bartlett	Fields	Lungren
Bateman	Fish	Mack
Bellenson	Ford (TN)	MacKay
Bereuter	Fowler	Marlenee
Billrakis	Frank	Martin (IL)
Biiley	Franklin	Martin (NY)
Boulter	Frenzel	McCain
Boxer	Gekas	McCandless
Broomfield	Gingrich	McCollum
Brown (CO)	Green	McEwen
Burton (IN)	Gregg	McKernan
Bustamante	Hall (OH)	Mica
Byron	Hall, Ralph	Miller (CA)
Callahan	Hammerschmidt	Miller (WA)
Campbell	Hansen	Molinar
Carper	Hendon	Moore
Chandler	Hiler	Moorhead
Coats	Hillis	Morrison (CT)
Cobey	Holt	Morrison (WA)
Coble	Hopkins	Mrazek
Combust	Hubbard	Nelson
Crane	Hunter	Nielson
Daniel	Hyde	Oxley
Dannemeyer	Ireland	Packard
de la Garza	Kasich	Parris
DeLay	Kolbe	Pashayan
DeWine	Kramer	Pease
Dickinson	Lagomarsino	Penny
DioGuardi	Lantos	Petri
Dornan (CA)	Leach (IA)	Quillen
Dreier	Lent	Richardson
Duncan	Lewis (CA)	Ridge
Early	Lewis (FL)	Ritter
Eckart (OH)	Lightfoot	Roberts
Edwards (OK)	Livingston	Robinson

Rodino	Slaughter	Taylor
Roemer	Smith, Denny	Thomas (CA)
Rogers	(OR)	Torricelli
Rostenkowski	Smith, Robert	Traxler
Roth	(NH)	Vander Jagt
Rowland (CT)	Smith, Robert	Vucanovich
Russo	(OR)	Walker
Schaefer	Snowe	Watkins
Schneider	Spence	Weber
Schumer	Stallings	Whitehurst
Sensenbrenner	Stangeland	Whittaker
Shaw	Stenholm	Wise
Shumway	Strang	Wolf
Shuster	Stump	Wortley
Sikorski	Sundquist	Wylie
Siljander	Sweeney	Yatron
Skeen	Swindall	Young (FL)
Skelton	Tauke	Zschau
Slattery	Tauzin	

NOES—231

Akaka	Florio	Mikulski
Alexander	Foglietta	Miller (OH)
Anderson	Foley	Mineta
Andrews	Ford (MI)	Mitchell
Annunzio	Gallo	Moakley
Anthony	Garcia	Mollohan
Aspin	Gaydos	Monson
Atkins	Gejdenson	Montgomery
AuCoin	Gibbons	Moody
Barnard	Gilman	Murphy
Barnes	Glickman	Murtha
Barton	Gonzalez	Myers
Bates	Goodling	Natcher
Bedell	Gordon	Neal
Bennett	Gradison	Nichols
Bentley	Gray (IL)	Nowak
Berman	Guarini	Oaker
Bevill	Gunderson	Oberstar
Biaggi	Hamilton	Ortiz
Boehlert	Hatcher	Owens
Boggs	Hawkins	Panetta
Boland	Hayes	Pepper
Boner (TN)	Hefner	Perkins
Bonior (MI)	Henry	Pickle
Borski	Hertel	Porter
Bosco	Horton	Price
Brooks	Howard	Pursell
Brown (CA)	Hoyer	Rahall
Bruce	Hughes	Rangel
Bryant	Hutto	Ray
Carr	Jacobs	Regula
Chapman	Jeffords	Reid
Chappell	Jenkins	Rinaldo
Clay	Johnson	Roe
Clinger	Jones (NC)	Rose
Coelho	Jones (OK)	Roukema
Coleman (MO)	Jones (TN)	Rowland (GA)
Coleman (TX)	Kanjorski	Sabo
Collins	Kaptur	Savage
Conte	Kastenmeier	Saxton
Conyers	Kemp	Scheuer
Cooper	Kennelly	Schuetz
Coughlin	Kildee	Schulze
Courter	Kindness	Seiberling
Coyne	Klecza	Sharp
Craig	Kolter	Shelby
Crockett	Kostmayer	Sisisky
Darden	LaFalce	Smith (FL)
Daschle	Latta	Smith (IA)
Daub	Leath (TX)	Smith (NE)
Davis	Lehman (CA)	Smith (NJ)
Dellums	Leland	Solarz
Derrick	Levin (MI)	Solomon
Dicks	Levine (CA)	Spratt
Dingell	Lipinski	St Germain
Dixon	Lloyd	Staggers
Donnelly	Long	Stokes
Dorgan (ND)	Lowry (WA)	Studds
Dowdy	Luken	Swift
Downey	Lundine	Thomas (GA)
Durbin	Madigan	Torres
Dwyer	Manton	Towns
Dymally	Martinez	Trafficant
Dyson	Matsui	Udall
Eckert (NY)	Mavroules	Valentine
Edgar	Mazzoli	Vento
Edwards (CA)	McCloskey	Visclosky
English	McCurdy	Volkmer
Erdreich	McGrath	Waldon
Evans (IA)	McHugh	Walgren
Evans (IL)	McKinney	Waxman
Fascell	McMillan	Weaver
Fiedler	Meyers	Weiss
Filippo	Michel	Wheat

Whitley	Wirth	Wyden
Williams	Wolpe	Yates
Wilson	Wright	Young (MO)

NOT VOTING—30

Ackerman	Gephardt	Roybal
Bonker	Gray (PA)	Rudd
Boucher	Grothberg	Schroeder
Breaux	Hartnett	Snyder
Burton (CA)	Huckaby	Stark
Carney	Lehman (FL)	Stratton
Chappie	Markey	Synar
Cheney	McDade	Tallon
Frost	Obey	Whitten
Fuqua	Olin	Young (AK)

□ 2050

Messrs. REID, NEAL, HUGHES, KINDNESS, and GUNDERSON changed their votes from "aye" to "no."

Messrs. McEWEN, RICHARDSON, RUSSO, and ROSTENKOWSKI changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 2100

AMENDMENT OFFERED BY MR. COLEMAN OF MISSOURI

Mr. COLEMAN of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLEMAN of Missouri. Page 233, after line 7, insert the following new section (and redesignate the subsequent sections accordingly):

SEC. 801. ESTABLISHMENT OF NATIONAL TRUST FOR DRUG-FREE YOUTH.

(a) ESTABLISHMENT.—In order to encourage private gifts of real and personal property to assist the Secretary in carrying out the national programs of drug abuse research, education, and prevention under section 831 and the activities of the Advisory Council under section 803, there is hereby established a charitable, nonprofit, and nonpartisan corporation to be known as the National Trust for Drug Free Youth.

(b) BOARD OF DIRECTORS.—The National Trust for Drug-Free Youth shall be under the general direction of a Board of Directors. The overall priorities, policies, and goals of the National Trust shall be determined by the Board in consultation with the Secretary. The Board shall coordinate the activities of the National Trust for Drug-Free Youth with the Secretary. The Board shall be composed of three members appointed as follows:

(1) one member shall be appointed by the President;

(2) one member shall be appointed by the Speaker of the House of Representatives; and

(3) one member shall be appointed by the Majority Leader of the Senate.

(c) PRINCIPAL OFFICE.—The National Trust shall have its principal office in the District of Columbia and for the purposes of venue in civil actions shall be considered an inhabitant and resident of the District.

(d) GENERAL POWERS.—The National Trust shall have the following general powers:

(1) to have succession until dissolved by Act of Congress, in which event title to the properties of the National Trust, both real and personal shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the Nation-

al Trust, pass to and become vested in the United States of America;

(2) to adopt, alter, and use a corporate seal which shall be judicially noticed;

(3) to sue and be sued, complain and defend in any court of competent jurisdiction;

(4) to adopt and establish such bylaws, rules, and regulations, not inconsistent with the laws of the United States or any State, as the Board considers necessary for the administration of its functions, including among other matter, bylaws, rules, and regulations governing administration of corporate funds;

(5) to accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatsoever character, absolutely or on trust, for the purposes for which the National Trust is created;

(6) to sell, exchange, or otherwise dispose of as it may determine from time to time the moneys, securities, or other gifts given or bequeathed to it;

(7) to appoint and prescribe the duties of such officers, agents, and employees as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the National Trust is created; and

(8) to audit the financial records of the corporation.

(e) LIMITATIONS.—The National Trust shall not have authority—

(1) to issue shares or stock or declare or pay dividends; or

(2) to loan funds to its officers or directors.

(f) REPORTS.—The Board shall submit an annual report and independent audit to the Congress and the President concerning the expenditure of funds under the National Trust.

Mr. COLEMAN of Missouri (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Missouri [Mr. COLEMAN] is recognized for 5 minutes.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

This amendment creates a national trust for drug-free youth which will serve as a catalyst and a vehicle for people to contribute their individual funds, as well as corporate funds, to a fund which will help defray the expenses of the educational drug prevention section of this bill.

It is a nonprofit corporation, a nonpartisan corporation created now by Congress which will be created by three people. The President will appoint one member, the Speaker of the House will appoint another member, and the majority leader of the other body will appoint a member.

These people, in conjunction with the Secretary of Education, will embark on a fundraising effort in this Nation, I think, very similar to what we have seen happen with the Statue

of Liberty, where Americans have contributed well over a quarter of a billion dollars to aid in the glorification of our past.

I think the American public is willing to make a tremendous contribution, a financial commitment to help secure the future of this Nation. So the drug-free youth trust fund will be set up under this amendment.

I think it is a good idea and one which, very frankly, I think has very widespread support in that regard.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from California, the chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Chairman, I have indicated acceptance of the amendment. I think it is an excellent amendment. I know of no opposition to the amendment and I commend the gentleman from Missouri [Mr. COLEMAN] for offering it.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I want to commend the gentleman for his amendment and urge its strong support. I point out that there are organizations very similar to what the gentleman is proposing here in existence in several of the States.

For example, there is a drug-free youth organization in California. It has been quite successful and, as a matter of fact, last year, the wives of the California delegation held a fundraising function here in Washington and raised some \$50,000 on rather short notice for that organization.

I think that the gentleman is exactly right. The public will support this kind of a drive and it can have an effect in two ways. One, the money will be helpful and the involvement of people in the process will be very helpful.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. MARTIN] for a colloquy with the chairman of the committee.

Mr. MARTIN of New York. Mr. Chairman, will the chairman engage with me for a minute in a colloquy?

Mr. Chairman, I note in this section with respect to the State Advisory Council on Drug Abuse Education and Prevention, I speak to page 238, that I spoke to the chairman about earlier, it has come to my attention, and a little bit too late to amend the section to specifically related to members of the boards of education of the various States, and specifically in subsection (c), speaking to officers of State and local governments, I would like to ask the chairman what his view is as to whether or not that includes members of the boards of education of the vari-

ous States to be mandated to serve on this council.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of New York. Certainly, I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, it was the intent, obviously, to include local boards of education. If there is any doubt as to whether or not the word "local government" does not do that, may I call attention to the fact that the rest of that section of paragraph 4 does say that the council appointed by the Governor and determined to be broadly representative of the general public certainly would include them by reference.

In addition to that, in the report of the committee, this language is included. While the legislation specifies that certain kinds of individuals who, at a minimum, must be included on such advisory committees, the States and the local education agencies are free to include others whose membership would enhance the effectiveness of the advisory committees.

I would assume that under that type of instruction, school board officials would certainly be given consideration.

The act, however, does not mandate it, but obviously it does allow them to be included and certainly in the charge to the Government that it should be broadly representative, I would certainly assume that they would be included.

Mr. MARTIN of New York. Mr. Chairman, I thank the chairman very much for that explanation.

Mr. HAWKINS. May I also add that if, in addition to that, further clarification is needed, I assure the gentleman that in the conference, we will certainly take steps to clarify that.

Mr. MARTIN of New York. Mr. Chairman, I thank the gentleman because I feel it is very important for members of boards of education to be included.

Mr. CONYERS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] is recognized for 5 minutes in opposition to the amendment.

Mr. CONYERS. Mr. Chairman, this is an extraordinary provision. Are we providing money to be controlled by whom? In other words, what I am asking is, and I belong to a number of groups that are working on combating narcotics, funding for communities that are working in this area, but it never occurred to me that we could pass a bill in Congress that would nationalize the whole effort and have it all, I suppose, going through one single conduit.

How would some of the organizations that I am already a member of, and they are rather small, I must admit, could they get in on the act or

would they be competing with this new national monster?

Is there another Lee Iacocca to come forward to chair such a committee as the gentleman proposes?

Why could we not, and I know this is daring, but why could we not just let the private sector get it together and do it themselves?

I recall many lectures about getting the Government off of people's backs. They seem to have come from this side of the room more than this side of the room, but how did the Government get into the business of organizing private charitable donations?

I know we are getting desperate in this war, but this is about the last straw. I do not know how I am going to go back and tell all of the organizations, one in Highland Park, one in Conan Gardens in Detroit, that you either have to file an application for a grant application, or I do not know what the mechanism is going to be. Or let us just dissolve and get with the national movement.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I am delighted to yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, the gentleman from Michigan [Mr. CONYERS] has raised a number of questions that I would like to respond to.

This is not an unprecedented venture into legislation. We have the National Trust for Historic Preservation; we have a trust for national parks and resources of that nature.

□ 2110

I want to let the gentleman know that the effort that we are putting together here is to focus national attention on a source where people can send their money. I am talking about corporations making tremendous contributions to a national effort and also individuals. I do not think it is going to detract from the gentleman's individual efforts throughout the country; but I think it will focus attention where a lot of people have not made those contributions.

Mr. CONYERS. Mr. Chairman, is the gentleman suggesting that the Citizens Against Crime in Highland Park, MI, will be just in a friendly competition for funds with this national organization?

Mr. COLEMAN of Missouri. If the gentleman will yield further, Mr. Chairman. Just like there are historical societies probably in every county in this country that the gentleman may feel are competing with the National Trust for Historic Preservation.

Mr. CONYERS. Then the gentleman does suggest that there will be a little friendly competition?

Then, Mr. Chairman, I will have to respectfully dissent from this unani-

mous consent about raising bread from the citizens to fight the war against drugs. I do not think at 9 o'clock at night that this is the safest or the most cogent hour for us to all come together and create another trust fund like that that preserves our national environment, and that rebuilt the Statue of Liberty and other funds. I think this idea, on reflection, is all wet.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. COLEMAN].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment No. 40, to be offered by the gentleman from Missouri [Mr. COLEMAN] is now in order.

Mr. COLEMAN of Missouri. Mr. Chairman, I do not wish to proceed with that amendment at this time.

The CHAIRMAN. The gentleman from Missouri [Mr. COLEMAN] withdraws the amendment.

Under the rule, it is in order to recognize the gentleman from Wisconsin [Mr. PETRI] for amendment No. 41.

Mr. LEWIS of California. The amendment has been withdrawn, Mr. Chairman.

The CHAIRMAN. Under the rule, it is in order to recognize the gentleman from Florida [Mr. PEPPER] to offer amendment No. 42.

AMENDMENT OFFERED BY MR. PEPPER

Mr. PEPPER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEPPER: Page 260, line 2, strike out "\$180,000,000" and insert in lieu thereof "\$280,000,000".

Page 260, line 10, strike out "two thirds" and insert in lieu thereof "four-fifths".

Page 261, line 8, strike out "one third" and insert in lieu thereof "one-fifth".

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. PEPPER] is recognized for 5 minutes.

Mr. PEPPER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, a few months ago the distinguished chairman of the Select Committee on Drugs, the gentleman from New York [Mr. RANGEL], allowed me to sit with him while he was holding a hearing on the drug problem in Miami, my district.

We sat there and listened to the admiral, the head of the Coast Guard, representatives of other agencies of the Government, and civil authorities State and national, talk about the tremendous magnitude of this drug problem, of the vast quantities of drugs being brought into our country from Latin America.

As I sat there and listened to those men struggling over how to interdict these hundreds and hundreds of airplanes, these hundreds and hundreds of boats, these various other means of communication and transportation bringing these drugs into the United States.

I wondered what a magnificent task it would be for us ever to be able to interdict all of these drugs coming into our country. So I began to wonder, why are they coming here? To get the money. I began to wonder: Should we put more effort and more money behind reducing the demand? If we reduce the demand, there would not be any occasion for them to bring the drugs here. There would not be anybody to buy them.

Now I have some facts here from our Select Committee on Drugs, prepared for this discussion. For example, there are 550,000 Americans dedicated to the use of heroin. There are 5 million Americans committed to the use of cocaine. There are 20 million Americans habitually using marijuana.

Americans spend an estimated \$120 billion a year on drugs. Then I found from this report, the number of treatment admissions per cocaine use in America has increased from 26,000 to 36,000 in the last year.

Only 19 percent of the money being spent for education and treatment comes from the Federal Government. Over 80 percent of the State alcohol and drug agencies identified a critical need for treatment programs for use under the age of 19.

Lastly, the resources allocated are inadequate to meet the challenge.

So I am simply saying to you, my colleagues, let us add at least \$100 million more to the \$280 million that is already in the program, in this bill, for education and treatment. If we dry up the demand, we will reduce the supply, you may be sure of that.

So I am asking you, will you not favorably consider an additional \$100 million—let us see if it does not make some difference. Maybe we will find that we should put the impetus on education and treatment and be more effective that way than in trying to interdict this market to those who have so much to gain by bringing their illicit drugs into our market.

Mr. Chairman, today I rise in support of my amendment to increase the funds for substance abuse treatment in the omnibus drug bill under title IX. This amendment will provide an additional \$100 million for drug rehabilitation to the states under a formula based on the population at risk and the relative per capita income. I believe that this is one area that was neglected during the formulation of this very important, all American bill. We know that the provision of treatment services is cost effective and a proven method of rehabilitation of drug addicts. This is extremely important since these addicts are responsible for the majority of crimes committed in our society. It has been documented that with treatment the average addict's criminal activity can be reduced by 84 percent.

Arresting people alone will not make the crime problem go away. Putting people in jail will not by itself end crime in the United States. Eventually, these people will be back on the streets, using drugs again and return-

ing to careers of crime to support their habit. We can stop a large portion of the crime in the United States, instead of just waging guerrilla attacks on it, by eliminating the craving for drugs that drives people into the streets to rob and kill our neighbors.

Treatment services are woefully inadequate to treat the 500,000 heroin addicts, the 4,000,000 regular users of cocaine, and the 20,000,000 regular users of marijuana in the United States. Presently, out of the estimated 24.5 million individuals who have a drug problem only 272,042 are receiving treatment. It has also been determined that only 10 percent of those actively seeking treatment are able to enroll in a program. In fact, the need for treatment centers is so great virtually every State responding to a survey indicated they required more resources. Mr. Chairman, I do not believe that increasing the amount earmarked for treatment from \$100 million to \$200 million will provide all the resources needed in this area but it will be of significant help.

The need is so great that the cost seems low when you compare it against the benefits it will provide not only to the addicts but also to society in general. Today we are embarking on a multibillion dollar war on drugs. To be successful we must push ahead on all fronts—law enforcement, prevention, education and treatment. If our efforts on any one of these fronts are weak, we risk losing not just a battle but the whole war.

By spending now on treatment we can reduce the need for increased expenditures in the future in the other areas. For too long our country has concentrated its efforts on reducing the inflow of illegal narcotics into our country while ignoring the need to reduce the demand for the drugs within our borders. As long as people are willing to pay for drugs there will be those who are willing to provide them.

Mr. Chairman, in conclusion I want to urge my colleagues to vote for my amendment. The need is real. We have the chance to expand dramatically the treatment services available. We must not let this opportunity slip away.

Mr. Chairman, I yield to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I want to congratulate the gentleman from Florida [Mr. PEPPER], the chairman of the Committee on Rules, as someone who has always understood how serious this problem was.

I would just like to say, for those people who think that the \$100 million is a lot of money, I can tell you that for the \$100 million, we can get a lot of savings.

In New York City, we got a waiting list of some 2,000 people, waiting to get into some of these treatment centers. Mr. Chairman, the tragic thing is that some of these are merely children, children that have run away from home, children that are picked up by priests and ministers in trying to help these kids; kids that are responding to hot lines, where we are paying for a hot line, and people call the hot

line, and there is no place for them to go, no place for them to receive assistance.

It seems to me that if we are sending a message out that we want to help, that one of the cruelest things we could do is to get people, like when Jesse Jackson convinces the kid to come up in front of his peers and say, "I made a mistake, I'm on drugs," at least to be able to have the kid get some treatment after he recognizes that he or she has a problem.

I do not think this is costing us any money. I think in the long run it is going to save us some money, because these kids normally end up in jail.

Mr. PEPPER. I thank the gentleman very much for his remarks.

The CHAIRMAN. The time of the gentleman from Florida [Mr. PEPPER] has expired.

Mr. YOUNG of Missouri. Mr. Chairman, I rise today in support of H.R. 5484 and Mr. PEPPER's amendment to the bill. I am pleased to see that Members on both sides of the aisle have come together in this declaration of war on drugs in the United States. H.R. 5484 is the first comprehensive piece of legislation to reach the House floor on this issue, and I am proud to have been an original cosponsor of this historic bill.

The drug crisis has reached epidemic proportions in the United States, with the use of controlled substances increasing at alarming levels. It has been estimated that well over \$100 billion will be spent on illegal drugs in the United States in 1986.

The drug problem is no doubt a national problem that requires a national response. Drug use has unfortunately become a fact of life in every segment of our society, from the elementary schools to the corporate boardrooms.

This legislation attacks the problem on several fronts, including the creation and expansion of programs that address education and prevention of substance abuse and rehabilitation for those who have already become involved with drugs. I am particularly interested in these provisions, due to the fact that they are designed to steer the next generation away from this deadly trend. Our greatest national resource is our young people, and we have a responsibility to help them to realize their full potential. This cannot happen unless they say no to drugs.

In my home State of Missouri, we have seen that the stakes are all too high where drugs are concerned. According to the Missouri Department on Probation and Parole, 65 to 70 percent of the 28,995 adults on probation and parole in Missouri were under the influence or had a chemical dependency at the time their crime was committed. Of the 10,000 people currently in Missouri's prisons, 7,500 have some type of chemical dependency.

I would also like to note that abuse of cocaine has increased dramatically in the St. Louis metropolitan area. The recovery center at Christian Hospital Northwest has said that they have witnessed an increase in cocaine addiction among their clients. Drug and Alcohol Rehabilitation and Treatment, Inc. [DART, Inc.] of St. Louis has reported the following

numbers for admissions to treatment in facilities in the area as a result of cocaine dependency: 205 in 1982; 248 in 1983; 274 in 1984; 363 in 1985; and 108 for the first quarter of 1986—the projection for 1986 is 450.

As you can see, this situation must be addressed and we must invest in rehabilitation for the thousands of Americans who have become chemically dependent. Ideally, we would prefer to prevent any American from ever experiencing substance abuse; however, we have an obligation to do whatever we can to assist those trying to kick these deadly habits.

I would like to commend each of the committees that contributed to this legislation and I urge my colleagues to support this bipartisan effort to reduce drug trafficking and improve drug education and treatment.

□ 2120

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. LEWIS of California. Mr. Chairman, I have no requests for time, and I yield back the balance of our time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. PEPPER].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment No. 43 by the gentleman from Illinois [Mr. MADIGAN] is in order at this time.

Mr. MADIGAN. Mr. Chairman, I withdraw the amendment.

The CHAIRMAN. Under the rule, it is in order to recognize the gentleman from Florida [Mr. BILIRAKIS] to offer amendment No. 44.

AMENDMENT OFFERED BY MR. BILIRAKIS

Mr. BILIRAKIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BILIRAKIS: Page 268, strike out line 1 and all that follows through line 19 on page 274 and redesignate part D as part C and section 920 as section 910.

Mr. BILIRAKIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Under the rule the gentleman from Florida [Mr. BILIRAKIS] is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Chairman, I am told that my colleagues will love me so much, because I have the last amendment, that hopefully they would see fit to accept the amendment.

Mr. Chairman, my amendment is a simple one and merely seeks to strike that provision under the Energy and Commerce Committee section of the bill which would create a \$650,000

commission, to investigate drug use by college athletes. The commission would also be required to investigate the impact of television on athletics and athlete recruiting practices.

Mr. Chairman, it simply does not make sense to me that we would include in an omnibus drug package a high-cost commission to study college athletic programs. Yes, we are all concerned about the use of drugs on college campuses and I have expressed my concern to every college and university president in the State of Florida. However, we can't let all of the media hype push us into irresponsible public policy decisions.

Most of the items which the new commission would study are presently being addressed by the President's Commission of the National Collegiate Athletic Association at no cost to the taxpayers. The NCAA is the appropriate body for the consideration and implementation of solutions to the problems in our university and college athletic programs. Not the Congress or a Federal commission.

Opposition to this commission was voiced by the Washington Post yesterday in an editorial which I would like to insert in the RECORD. Additionally, I recently received a letter from the Tampa-based Drug and Alcohol Health Care Services, which conducts drug rehabilitation programs for young people, stating that they feel a decision to fund a new sports commission would be an error, which I would like to insert in the RECORD.

That letter reflects a shortage of counselors due to low wages, and it tells of a substantial waiting list.

This situation isn't unique to my district; but is happening across the Nation. With such a serious shortage of counselors and facilities, it makes a lot more sense to strive to address these problems than to create a commission to study recruiting practices and the impact of television on college athletes. These commissions are getting out of hand. Just a few short weeks ago, the Energy and Commerce Committee reported out a bill to establish a boxing commission. Where is it going to end? If we don't address the needs of the children who are drug abusers now and waiting in line to be admitted to a treatment program, they may never have the opportunity to become college sports heroes. I hope my colleagues will join in supporting my amendment.

In January, the NCAA authorized drug testing for any athlete competing in the association's championship events and the 18 major-college post-season football bowl games, as well as penalties for any athlete testing positive. In addition to the NCAA's actions, each college and university can have its own drug testing programs and I am told many of them do. Had

hearings been conducted on the establishment of an Advisory Commission on the Comprehensive Education of Intercollegiate Athletes these points would have been brought out. These people are trying to clean up their own houses without Government interference or tax dollars.

If my amendment is passed, we won't be neglecting college athletes. There is already included in the bill a White House Conference on Drug Abuse and Drug Trafficking Control which will have the authority to address the use of drugs by college athletes, and for that matter the use of drugs by people in the entertainment field.

The letter and article follow:

TAMPA HILLSBOROUGH COUNTY
DRUG ABUSE COMPREHENSIVE CO-
ORDINATING OFFICE, INC.,

Tampa, FL, September 8, 1986.

Mr. MICHAEL BILIRAKIS,
Congress of the United States, House of Rep-
resentatives, Washington, DC.

DEAR MR. BILIRAKIS: I am sending to you a letter concerning House Bill HR 5334 which addresses Federal programs for the prevention and treatment of drug abuse.

As I discussed with Sandy Handberry, it is important that you understand that the current treatment resources are stretched beyond capacity. Without additional resources, waiting lists for client treatment will continue. Last year DACCO provided services for 2,354 clients and their families.

At the last board meeting of the Florida Alcohol and Drug Abuse Association, of which I am a representative, ten government funded programs were polled in reference to their waiting lists. It was shocking to learn that more than 600 clients are currently awaiting treatment services in those programs.

Counselors who provide these services are currently being paid at an entry level salary of \$12,000.00 annually. This includes counselors that have a master's level degree.

We feel that a decision to fund the new sports program would be in error until these existing inequities are addressed.

If you have any questions or if I can provide you with any additional information, please feel free to contact me.

Sincerely,

BARBARA ROSENBERG,
Director of Administrative Services.

[From the Washington Post, Sept. 10, 1986]

HANDLE THIS PACKAGE WITH CARE

The trouble with the drug problem is that there are no quick fixes. Surely, after all these years, members of Congress know that. What, then, is going on in the House this week? A mammoth bill and a set of amendments full of all sorts of proposals—some good, some doubtful and some really awful—are up for consideration. Yes, the war on narcotics is a hot political issue, but before this package is pushed through on the eve of national elections, legislators should take a deep breath, count to 10 and look critically at this legislation.

The rush to legislate began only six weeks ago when Speaker O'Neill announced a major bipartisan initiative on the drug problem. Each House committee with narcotics jurisdiction—there are at least nine—was asked to report a package of drug bills before the Labor Day recess. These bills

were then rolled together into a single proposal and sent, via the Rules Committee, to the floor. It's a wish list, really. It contains a little something for everyone who has a plan for fighting drugs. Some of these ideas, such as long mandatory prison sentences for pushers, have been tried in the states and failed. Others look like window dressing. Do we really need a new White House Conference, a study by DOT on the relationship between drugs and highway safety (yes, a study) or a federal Advisory Commission on the Comprehensive Education of Intercollegiate Athletes? Then there are the "Beefing-up" proposals: more coordination, more confiscation of assets, more pressure on drug-producing countries. Is any of this in response to a thoughtful and considered analysis of what is already being done?

Some zealots believe that even this package isn't enough. They propose to offer amendments on the floor that would bring the armed forces into the law enforcement effort, create a good-faith exception to the exclusionary rule and institute a federal death penalty to deal with traffickers. The fear of more reasonable members is that in this can-you-top-this atmosphere, just about anything will be passed and quickly considered by the Senate, where a comprehensive bill was introduced yesterday.

There is no doubt that narcotics are a major national problem in our society and that much can be done to address it. Education programs seem to be making a dent, for example, and should be continued. Results will be slow in coming, but we believe they will be steady. Activities in support of this trade by banks and individuals who handle the enormous amounts of money involved must be curbed. And law enforcement must be firm, well funded and well organized. There is much that is good in the House package, but the pressures of time and politics behind this rush are dangerous. It may take some political courage to challenge any part of it, but if legislators aren't careful, an awful lot of bad law could slip through in the guise of a tough and popular assault on narcotics.

Mr. Chairman, I yield the balance of my time to the gentleman from Ohio [Mr. OXLEY].

The CHAIRMAN. The gentleman from Ohio [Mr. OXLEY] is recognized for 1 minute.

Mr. OXLEY. I thank the gentleman for yielding.

Mr. Chairman, just briefly, all of our colleagues received a telegram from the NCAA. I would like to quote from it if I may:

No hearings were ever held on this proposal. In fact, the proposed role of the commission is in major part simply repetitive of ongoing initiatives already undertaken in the education community. Under these circumstances expenditures of \$650,000 in taxpayer funds appears unwarranted.

I think that says it all. We cannot fight the drug war whether it be on campus or wherever it may be, with another commission. I would certainly hope that we do not burden this already burdensome bill right now with some more extraneous commissions that have been set up.

I would ask that the Bilirakis amendment be adopted, and we can get on with fighting the drug problem

without burdening the NCAA or college athletics or anything else.

The bill capably handles the question we are dealing with, that is the drug problem on campus, as my friend from Florida pointed out, with the White House conference and with other sections of the bill.

We do not need another commission. I ask you to support the Bilirakis amendment.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Under the rule the gentleman from California [Mr. WAXMAN] is recognized for 5 minutes.

Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. LUKEN], the author of this provision.

Mr. LUKEN. I thank the gentleman for yielding.

Mr. Chairman, I urge this body to vote "no" on this amendment. Many college presidents and academicians are concerned about the students as persons and want to break out of the bonds of the NCAA, and they are pleading for our help today. This bill offers that help. If you vote for Bilirakis, you will deny that help. These college presidents say that their athletes are being systematically exploited at universities and big-time professional sports business, that these same athletes, like Len Bias, infrequently attend class, have no plans to graduate, they are consigned to jock dormitories and separated from the mainstream. They leave college, usually do not graduate, and they leave unprepared for the game of life.

These college presidents, not the NCAA, have told us that these deprived students turn to drugs to fill in the void. Yes, the NCAA made an in-house investigation in 1982 but today the scandal of players who are bought, rented and hired by the college, not to be students but to be a commercial commodity, has reached new heights.

Let us examine this NCAA. You all have letters from the NCAA. The NCAA is the one opposing this provision in the bill.

Then I have letters from college presidents, 40 of them who are supportive, individually. They are asking for our help. Is the NCAA interested in the kids? What they are interested in is the bottom line, the big-time sports business; that is what they are interested in. They are interested in the \$40 million they got, the \$40 million from the college basketball tournament this past February or April, I guess it was. The season does not end in February any more; it ends in April or May or June.

They got that \$40 million, and did that go into any drug abuse programs? Has anybody here suggested that the NCAA has promoted any drug abuse programs? It is going to be left for this

body, it is going to be left for others, it is going to be left for the presidents, the academicians who are asking for our help simply to give them the clout to strengthen their hand.

A vote for Bilirakis would be to deny those college presidents, those who are interested in the students as students, not as commodities and as athletes, a vote for Bilirakis would be a continuation of Exploitation U; the exploitation of these youth.

Let us vote against the Bilirakis amendment and end this exploitation.

Mr. WAXMAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, my colleagues, professional sports personalities represent role models for our youth. That is a fact. It is also a fact that college athletes enjoy a special privileged status in their schools, they are the subject of envy and admiration, they enjoy the respect of their fellow students. The tragic death of Maryland basketball star Len Bias underscored the reality of drug use on our college campuses.

The purpose of the Advisory Commission on the Comprehensive Education of Intercollegiate Athletes is to examine the prevalence of drugs in college sports and the role of colleges and universities in discouraging illegal drug use by athletes.

An objective and dispassionate assessment of this issue is overdue.

The legislation provides an appropriate forum for these activities. Please vote against the amendment that would strike out that provision, go along with the recommendation that Mr. LUKE has made, it is an excellent one.

Mr. Chairman, I urge opposition to the amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, drug use and abuse in America has reached epidemic proportions. No instant congressional panacea can cure this problem. But a well conceived and multifaceted assault on drug abuse can reverse this trend and help to unhook millions of Americans from drug dependency.

Consider, for example, that some 25 million Americans have tried cocaine and that about 2 million of these are actually addicts. No wonder that cocaine is an \$11 billion a year industry or that its use resulted in the deaths of 563 people in 25 cities last year. Rural North Dakota alone accounts for about 1,000 drug arrests each year.

Perhaps even more alarming is the growing popularity of crack or cheap cocaine. Because it causes a speedy rush of exhilaration, it may spawn addiction in even greater numbers than other forms of cocaine. The director of the National Cocaine Hotline refers to crack as "... the dealers' dream and the user's nightmare" because of its relatively low cost and quick effect.

Police report that increased crack use has also engendered increased crime in several cities. Users become so deranged from its psychotic effects that they may perpetrate brutal crimes.

Users not only endanger others, they also harm themselves. Cocaine abusers suffer from such debilitating symptoms as emphysema-like damage to the lungs, increased heart rate and blood pressure, weight loss, and malnutrition. And as many addicts have discovered, the road to recovery is paved with broken glass.

Because of such realities of cocaine abuse—as well as the entire gamut of chemical dependency—Congress has marshalled a frontal assault on drug abuse and drug trafficking. And this action rests on the bedrock of popular support for concerted action on the part of citizens across the Nation. Without doubt, we could hope that we did not have to wait for a crisis to act vigorously. As Yale University's professor of psychiatry, Dr. David F. Musto, recently argued:

It would be far better if a public consensus against cocaine and other seductive drugs did not have to be relearned every few generations, but there seem to be no easy ways to ensure such a lasting public attitude.

ACTION ON DRUG ABUSE

Fortunately, such a consensus is emerging in the general public and now Congress is putting these concerns into action. I rise in support of the Omnibus Drug Enforcement, Education, and Control Act as a strong effort to tackle this problem. It will help us to attack both the illegal supply of drugs and to prevent the demand for drug use in this country.

The bill will help curb the supply of drugs by increasing penalties for most drug-related offenses and by establishing a minimum 20-year jail sentence for certain forms of drug trafficking and manufacturing. Moreover, it will authorize added funds for drug enforcement, prison construction, and drug enforcement grants to local police.

Among the noteworthy enforcement improvements which I endorse is expanding the Armed Career Criminal Act to include a mandatory 15-year prison term for possession of a firearm by a person with three convictions for drug trafficking. Keeping drugs away from kids means keeping dangerous career pushers off the streets and playgrounds of America.

As daunting as the task may seem, we must also expand our efforts to cut off drugs at their source. Drug interdiction and drug crop destruction present mind-boggling tasks, when one considers that worldwide traffic in drugs involves dozens of countries, thousands of miles of unchecked borders, and thousands of tons of drug transactions. Yet, we are not without tools for the job.

This bill requires the U.S. representatives to international organizations to make drug eradication a top priority. Whenever foreign countries refuse to cooperate with us we can more easily suspend foreign aid under other provisions in the legislation.

REDUCING THE DEMAND FOR DRUGS

But as one Justice Department official informed me, we could send out the entire Air Force on drug interdiction and still fail to cut off most of the drug traffic. That is why we also need a massive campaign of drug educa-

tion and prevention to dry up the demand for illegal drugs.

This bill authorize \$350 million for each of the next 3 years for the development of drug abuse education programs run by State governments, local school boards, and colleges and universities. These funds will help bolster curriculum development, counseling, early referral and intervention, as well as community education.

Educators in North Dakota inform me that such efforts have played a major role in curbing and preventing drug abuse by our students. My only concern with the new program is that resources reach local schools and communities and not get tangled up in the drug education bureaucracy.

Among the communities assisted by this bill are Indian reservations, where chemical dependency of all kinds is a major health problem. The bill will focus added resources on drug education, prevention and law enforcement. This will not only help tribal members to use their own human resources more productively, but also reduce the burden on the law enforcement officials in surrounding communities for dealing with such problems as drunk driving.

THE ILLUSION OF DRUG TESTING

While this bill moves us down the right roads of drug interdiction and drug education, some would also say that we needed expanded drug testing of employees to clean up the work place, to make it safer, and to set an example for young people.

Undoubtedly, the careful and complete use of topnotch drug tests may help ensure greater safety in such critical jobs as air traffic control, transportation, and public safety. Unfortunately for proponents, drug testing is a tricky, costly, and intrusive business.

Initial screening tests have such a rate of inaccuracy that they may miss up to 50 percent of drug users and find false drug-use indicators in 5 percent of samples. As a result, a second more sophisticated test is needed to verify the screening results. While initial tests may cost only a few dollars, the follow-on test might run as much as \$100.

In other words, a valid, one-time test of Federal employees might cost over \$200 million. Whether such a cost is warranted deserves careful debate and scrutiny before we rush down the path of limited and highly questionable testing programs. The same could be said for the private sector.

In addition, accuracy also requires what experts call a "chain of custody" from the time a urine sample is given until its testing and labeling. In the strictest program this also entails close observation of test subjects as they produce a urine specimen.

To expand on this debate, I include for the record a recent article entitled "Drug Testing: Open to Misuse and Many Hazards."

In closing, Mr. Chairman, we need wise investments in drug enforcement and education—as this bill provides. I support this bipartisan, comprehensive effort and urge its support by my colleagues.

[From the Washington Post, Sept. 10, 1986]

DRUG TESTING: OPEN TO MISUSE AND MANY HAZARDS

(By Philip J. Hilt)

Drug testing is a tricky, technical business that under ideal circumstances can accurately identify more than half of those who have used drugs, while falsely accusing a tiny percentage.

But in practice, testing like that in use at many companies is subject to so many hazards and serious questions of misuse that it would be virtually impossible to set up a program free from significant human error and potential for fraud, according to experts.

Drug testing is being considered by the Reagan administration for a wide range of federal employees.

Experts say the greatest abuse of the technology comes in business, and that as the test become more widespread, the toll in mistakes and false accusations may be large. "I just hope there isn't too high a body count" before testing is done properly, said Theodore Shults, corporate lawyer for CompuChem, a drug-testing firm in Research Triangle Park, N.C.

By consensus, the best testing programs—and the system used by the military—first employ a screening test using a rough method, followed by an expensive and far more accurate second test. The first test misses a substantial number of people, perhaps as many as half, who have signs of drug use in their systems. It also falsely finds drug indicators in urine 5 percent of the time at a minimum, possibly more frequently.

Because of the high inaccuracy rate of these initial tests, the second is used to check results showing drugs present. This second test, experts say, is critical to any testing system but frequently is not used by business.

The typical sort of testing expected in a large screening program, like that being considered for federal employees, involves taking a urine sample and testing it for two to eight drugs. Some drugs can be identified for a few days after they have been taken, such as cocaine, and others for months, such as marijuana.

Factors affecting the accuracy of the final result include whether the sample was taken correctly with a witness present; whether the person tested has eaten or drunk something that will confound the test; the type of test used to take a first look for drugs; the type of test used to confirm the first result, and sloppiness such as mislabeling or contamination of the sample at any stage of the process.

The hazards of testing begin before the urine sample is taken. Subjects may be taking prescription or nonprescription drugs that can falsely give positive readings on the initial test. In addition, the amount of liquid taken before a test can affect the result.

Drugs that can cause false positives in screening for marijuana use, for example, are anti-inflammatory drugs and such common painkillers as Advil and Nuprin. In testing for amphetamines, drugs that can give false positives include diet pills, nasal decongestants and heart or asthma medication.

Accuracy also requires a clear "chain of custody" of the urine sample, witnessed at every step to prevent switching, adulterating or mislabeling.

Thus, in the strictest programs, test subjects must be closely observed while they urinate into sample bottles.

When samples are taken to the laboratory, two screening tests are most common: the radio immunoassay (RIA), and the enzyme-multiplied immunoassay technique (EMIT).

Both use methods in which special chemicals from the body's immune system, called antibodies, pick out drugs or drug-breakdown products if they are present in the urine.

Both methods are also relatively inaccurate. In a study by the federal Centers for Disease Control in Atlanta, 13 drug-testing firms were sent urine samples not knowing they were from the CDC. The study showed that results varied from zero correct to 100 percent correct in identifying drugs such as cocaine, morphine and barbiturates. Most firms were correct less than half the time.

In contrast, Cmdr. Walter Vogl, a senior policy analyst in the office of the assistant defense secretary for health affairs, said that in military testing of about 3 million people annually, the first screening tests are correct about 90 percent of the time.

Experts agree that the most important drug test is the second, confirmatory test. This must be done with a gas chromatograph mass spectrometer test, according to D. Ian MacDonald, director of the federal Alcohol, Drug Abuse and Mental Health Administration.

While screening tests cost a few dollars a sample, this second test can cost as much as \$100. Its accuracy, however, is counted by experts to be near 100 percent, not counting human errors such as mislabeling.

Mr. WAXMAN. Mr. Chairman, we call for opposition to the Bilirakis amendment, and I yield back the balance of our time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. BILIRAKIS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BILIRAKIS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 165, noes 245, not voting 21, as follows:

[Roll No. 377]

AYES—165

Archer	Clinger	English
Armey	Coats	Erdreich
Badham	Cobey	Fawell
Bartlett	Coble	Felds
Barton	Coleman (MO)	Flippo
Bateman	Combest	Frank
Bedell	Conyers	Franklin
Bereuter	Craig	Frenzel
Bevill	Crane	Gaydos
Bilirakis	Crockett	Gekas
Billey	Daniel	Gibbons
Boehlert	Dannemeyer	Gingrich
Borski	Daub	Goodling
Boulter	DeLay	Gradison
Brown (CO)	Dickinson	Green
Burton (IN)	Dicks	Gregg
Callahan	Dornan (CA)	Gunderson
Campbell	Dreier	Hansen
Carper	Duncan	Henry
Carr	Early	Hiler
Chappell	Eckert (NY)	Hillis
Cheney	Emerson	Holt

Hunter	Michel	Shaw
Ireland	Miller (OH)	Shelby
Jacobs	Miller (WA)	Shumway
Johnson	Mollinari	Shuster
Jones (OK)	Monson	Siljander
Kanjorski	Montgomery	Skeen
Kasich	Moore	Slaughter
Kemp	Moorhead	Smith (NE)
Kindness	Morrison (WA)	Smith, Denny
Kolbe	Murphy	(OR)
Kolter	Murtha	Smith, Robert
Kramer	Nichols	(NH)
Lagomarsino	Nielson	Smith, Robert
Latta	Olin	(OR)
Leach (IA)	Oxley	Spence
Leath (TX)	Packard	Stallings
Lent	Parris	Stangeland
Lewis (CA)	Penny	Stenholm
Lewis (FL)	Petri	Strang
Lightfoot	Porter	Sundquist
Livingston	Pursell	Sweeney
Loeffler	Quillen	Swindall
Lott	Ray	Tauke
Lowery (CA)	Regula	Thomas (CA)
Lujan	Ridge	Vander Jagt
Lungren	Rinaldo	Vucanovich
Mack	Roberts	Walker
Marlenee	Roemer	Weber
McCain	Rose	Whitehurst
McCandless	Roth	Whitley
McCollum	Schneider	Whittaker
McCurdy	Schuetter	Yatron
McEwen	Schulze	Young (FL)
Meyers	Sensenbrenner	Zschau

NOES—245

Akaka	Dymally	LaFalce
Alexander	Dyson	Lantos
Anderson	Eckart (OH)	Lehman (CA)
Andrews	Edgar	Lehman (FL)
Annunzio	Edwards (CA)	Leland
Anthony	Edwards (OK)	Levin (MI)
Applegate	Evans (IA)	Levine (CA)
Aspin	Evans (IL)	Lipinski
Atkins	Fascell	Lloyd
AuCoin	Fazio	Long
Barnard	Feighan	Lowry (WA)
Barnes	Fiedler	Luken
Bates	Fish	Lundine
Beilenson	Florio	MacKay
Bennett	Foglietta	Madigan
Bentley	Foley	Manton
Berman	Ford (MI)	Martin (IL)
Biaggi	Ford (TN)	Martin (NY)
Boggs	Fowler	Martinez
Boland	Frost	Matsui
Boner (TN)	Fuqua	Mavroules
Bonior (MI)	Gallo	Mazzoli
Bonker	Garcia	McCloskey
Bosco	Gejdenson	McGrath
Boxer	Gilman	McHugh
Brooks	Glickman	McKernan
Broomfield	Gonzalez	McKinney
Brown (CA)	Gordon	McMillan
Bruce	Gray (IL)	Mica
Bryant	Gray (PA)	Mikulski
Bustamante	Guarini	Miller (CA)
Byron	Hall (OH)	Mineta
Chandler	Hall, Ralph	Mitchell
Chapman	Hamilton	Moakley
Clay	Hammerschmidt	Mollohan
Coelho	Hatcher	Moody
Coleman (TX)	Hawkins	Morrison (CT)
Collins	Hayes	Mrazek
Conte	Hefner	Myers
Cooper	Hendon	Natcher
Coughlin	Hertel	Neal
Courter	Hopkins	Nelson
Coyne	Horton	Nowak
Darden	Howard	Oakar
Daschle	Hoyer	Oberstar
Davis	Hubbard	Ortiz
de la Garza	Hughes	Owens
Dellums	Hutto	Panetta
Derrick	Hyde	Pashayan
DeWine	Jeffords	Pease
Dingell	Jenkins	Pepper
DioGuardi	Jones (NC)	Perkins
Dixon	Jones (TN)	Pickle
Donnelly	Kaptur	Price
Dorgan (ND)	Kastenmeier	Rahall
Dowdy	Kennelly	Rangel
Downey	Kildee	Reid
Durbin	Klecza	Richardson
Dwyer	Kostmayer	Ritter

Robinson	Smith (IA)	Vento
Rodino	Smith (NJ)	Visclosky
Roe	Snowe	Volkmer
Rogers	Solarz	Walden
Rostenkowski	Solomon	Walgren
Roukema	Spratt	Watkins
Rowland (CT)	St Germain	Waxman
Rowland (GA)	Staggers	Weaver
Roybal	Stark	Weiss
Russo	Stokes	Wheat
Sabo	Studds	Williams
Savage	Stump	Wilson
Saxton	Swift	Wirth
Schaefer	Tauzin	Wise
Scheuer	Taylor	Wolf
Schumer	Thomas (GA)	Wolpe
Seiberling	Torres	Wortley
Sharp	Torricelli	Wright
Sikorski	Towns	Wyden
Sisisky	Trafficant	Wylie
Skelton	Traxler	Yates
Slattery	Udall	Young (MO)
Smith (FL)	Valentine	

NOT VOTING—21

Ackerman	Grotberg	Schroeder
Boucher	Hartnett	Snyder
Breaux	Huckaby	Stratton
Burton (CA)	Markey	Synar
Carney	McDade	Tallon
Chappie	Obey	Whitten
Gephardt	Rudd	Young (AK)

□ 2145

Messrs. BROOMFIELD, BENNETT, and FUQUA changed their votes from "aye" to "no."

Mr. TAUKE changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. MARKEY. Mr. Chairman, I want to stress the importance of the media's role as we accelerate our efforts in combatting the national drug abuse menace. This legislation creates a Media Advisory Board which will have the crucial task of informing and hopefully educating our young people about the harmful consequences from any consumption of any hard drug.

This Media Advisory Board will bring together experts from the broadcasting and publishing industries, and from the program production and advertising communities. These are the groups who have the special knowledge and experience to shape and convey the best possible message to America's youth—that drug abuse hurts.

The formation of this panel presupposes that much more needs to be done by our Nation's media to drive home this message. But our action here in no way should be construed as ignoring or belittling the initiatives already started by many communications media. In fact, the antidrug program campaigns of which I am aware appear to be well-conceived and already may be discouraging some young people from experimenting with drugs.

For example, the National Broadcasting Co., Inc. [NBC] has been conducting antidrug abuse campaigns since 1980. NBC's first campaign was entitled "Get High on Yourself"—a theme that stressed individual self-respect to the exclusion of drug use. The most recent on-air campaign—"Just Say No"—centered on peer pressure messages, relying on consensus research which identified positive peer pressure as an effective way to fight substance abuse.

NBC and other broadcast groups are already planning new and more targeted cam-

paigns for 1986-87. It is this kind of expertise and experience that we hope will be brought together in our media advisory panel. Because, although much has been done, much more is necessary.

I am proud to have joined my colleague, TIM WIRTH, in introducing this amendment in committee. Our Nation's media need to accelerate their efforts in helping us fight this enormous threat.

Mr. LAFALCE. Mr. Chairman, I rise in support of H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act. This legislation represents a bipartisan, comprehensive approach to one of the most serious social problems confronting America today. It replaces appealing homilies and empty rhetoric with a multifaceted attack on a problem that cannot be solved overnight or through any one approach. Indeed, we must address the drug problem on all fronts if we are to have any hope for success so great is its dimensions.

The legislation would allocate about \$1.5 billion over the next 3 years for education, Federal prison construction, aid to drug producing nations willing to join the fight against drugs, as well as assistance to State and local agencies for the same purpose. The bill also increases penalties across the board for most drug offenses, as well as creating new ones.

I. THE SCOPE OF THE PROBLEM

Drug abuse in the United States is an intensifying problem that creates huge health, economic, law enforcement and social problems. In recent years, both the accessibility and affordability of such dangerous drugs as cocaine has threatened to tear apart the nation's social fabric.

Between 1970 and 1985, arrests for drug violations have doubled from 400,000 to 800,000, according to FBI statistics, and these figures reflect only a tiny percentage of those who abuse drugs and have serious problems as a result.

The dollar value of cocaine seized at our borders by U.S. authorities increased from about \$15 to \$75 million between 1984 and 1985. Marijuana seizures went from about \$30 to \$50 million in the same period, and law enforcement officials are among the first to admit that they confiscate a tiny share of the drugs that come into the country. Estimates of that total range from \$27 to \$110 billion annually.

Absenteeism, accidents, and inefficiency due to the use of drugs cost American employers an estimated \$33 billion per year.

A recent development of frightening proportions is the easy availability of a processed form of cocaine which is smoked, called crack. Crack is thought to be even more highly addictive than other forms of cocaine or heroin. While a gram of cocaine sells for at least \$100, two small pieces of crack, or enough to get three people high can be purchased in almost any American city for about \$10. Perhaps the most alarming elements of the crisis are that crack and other drugs are readily available on school yards across the land.

While crack has received the lion's share of publicity in recent months, the pervasive nature of alcohol and marijuana abuse by youngsters and adults is a continuing problem.

A recent study by the National Center for Health Statistics put the national medical bill for drug abuse at \$59.7 billion, while alcohol abuse accounted for \$116.7 billion.

In view of the scope of the problem the bill is a small but important step in the right direction.

II. DRUG ENFORCEMENT AND PENALTIES

Those that traffic in drugs do so for profit. It is big business and if we are to have any success at all we must alter the balance between the rewards, which are often vast, and the punishment, which is often too slight to dilute the attraction of the millions that can be made in the drug trade. It is not just the suppliers, however, that must be deterred. The users, many of whom are young and impressionable, view drugs as a recreational vice, with little potential for serious harm. We must impress upon the users that this is not the case; that drugs are a serious and dangerous business and that no matter how satisfying the kick, the punishment makes it an even worse gamble than it already is.

The legislation increases the penalties for most drug-related offenses, makes it a crime to sell drugs near school grounds, which includes colleges and universities, makes it illegal to use children to manufacture or distribute drugs, and permits the Justice Department to enter into joint operations with state and local police for drug enforcement.

Although the bill increases the penalties for drug trafficking, it also acknowledges that there are differing degrees of culpability in the drug world. Thus, separate penalties are established for the biggest traffickers, with another set of penalties for other serious drug pushers. If death or bodily injury results from the manufacture or distribution of drugs, the bill mandates a prison term of 20 years to life. The bill also doubles the normal penalty for using children to distribute drugs, and establishes a 15-year mandatory sentence for possession of a firearm by an habitual drug trafficker. For those caught with small amounts of drugs, the bill increases the fines that can be imposed rather than mindlessly sending individuals off to prison when another form of deterrence would be more appropriate.

The resort to increased penalties to combat criminal activity has often been undermined by the paucity of available prison space. Needless to say, a long sentence is of little value if overcrowding of prison facilities influences prosecutors to arbitrarily drop or reduce charges or necessitates the early release of convicted felons. The legislation puts its money where its mouth is in this regard and appropriates several hundred millions for Federal prison construction. This sends a clear message to those who violate the law that these increased penalties are more than just idle threats.

Of course, increasing the Federal criminal penalties alone will not be sufficient to deter illegal drug trafficking. Historically, law enforcement in this country has been a local function, and the legislation recognizes that the full cooperation of State and local governments must be enlisted to effectively combat this problem. For this reason, the bill substantially increases the funds available for drug enforcement assistance. This, I believe, is a

welcome sight in these times of budget austerity for it indicates that we are willing to spend money to combat an urgent national priority.

III. DRUG INTERDICTION

In addition to putting drug traffickers behind bars, we must increase our efforts to halt the introduction of illegal drugs into our country from overseas. The available supply of drugs can be reduced in several ways, and I am pleased that the legislation takes a broad approach to the problem.

The first line of defense against drug smuggling is the Coast Guard and the Customs Service. The legislation provides these agencies with both the increased resources and the clear sense of mission necessary to put a crimp into the huge volume of illegal drugs flowing into the United States. It also expedites the procedure under which vessels or vehicles carrying illegal drugs can be seized to secure payment of penalties; prohibits the importation of drug paraphernalia; provides greater flexibility to use drug informers; and establishes tighter reporting requirements needed to monitor the entry into the United States of vessels, vehicles, or aircraft that might be carrying illegal drugs.

No matter how much we increase the effectiveness of the Coast Guard and the Customs Service, however, it will never be sufficient as long as producing countries continue to export drugs to the United States in large quantities. The legislation attempts to deal with this problem by establishing an incentive system which rewards those nations that establish effective drug eradication programs, while penalizing those that do not.

Specifically, the bill instructs the U.S. executive directors to the multilateral development banks to oppose any financial assistance to countries that have not developed and implemented drug eradication programs. Conversely, it instructs the U.S. executive directors to support increased assistance for such eradication programs and to encourage increased lending for crop substitution programs.

Many of the drug-producing nations are extremely poor and drug crops are virtually the only source of income for millions of their inhabitants. In light of this economic reality, it will not be easy to turn them away from such activities, but we must make a start, and I believe that it is far preferable to offer positive incentives rather than negative sanctions to accomplish this.

In addition to utilizing the financial power of the multilateral development banks, the legislation also provides for trade sanctions against those countries that fail to cooperate with U.S. efforts to reduce drug trafficking, authorizes millions in new appropriations for foreign drug interdiction and eradication efforts, and permits the military, under carefully specified conditions, to assist in these operations.

Again, I prefer an approach that seeks to enlist the cooperation of foreign governments rather than one that seeks to coerce them. Moreover, I am a bit uneasy about allowing U.S. military personnel to participate in overseas drug interdiction efforts. Still, our military has enormous resources at its disposal, and to the extent that these could be used to reduce drug trafficking, this could represent a positive contribution to the fight against drugs.

IV. DRUG TREATMENT, PREVENTION AND EDUCATION

It is axiomatic in economics that demand creates supply, and until we do something to cure America's apparently insatiable appetite for illegal drugs the problem will continue, despite the most earnest enforcement and interdiction efforts. The legislation recognizes this fact and focuses on prevention, treatment and education. Funds are allocated for treatment and community services, radio and television announcements, research, training of personnel, and drug education.

It is particularly important that we target our school-age population and educate them as to the dangers of drugs if we are to have any chance of getting on top of this problem. Indeed, just a few years ago it was widely believed that cocaine was harmless, nonaddictive drug. Tragic and bitter experience has demonstrated the folly of this belief. We must develop a better way to learn the truth about drugs. Fortunately, the bill recognizes this fact, and does not rely purely on law enforcement activities, which although critical, cannot, unlike education, get at the root of the problem.

V. CONCLUSION

This legislation is but a start, but I believe it is a good one because, primarily, it does not rely on any single approach in trying to deal with a problem whose dimensions are so vast. Still, the magnitude of the problem necessitates large financial commitments to deal with it; but money alone will not be sufficient. Parents, friends, relatives, churches, schools, labor, and management must join with Government in a concerted effort to eradicate the drug problem. Individuals must assume responsibility for their own lives and actions and reject the drug culture. Government's proper role is not to supplant, but to support these efforts.

It is time to put aside the false rhetoric and recognize the drug problem for what it is—perhaps the great single threat to America's social fabric. This is why we have a Government in the first place, to marshal the resources necessary to deal with this extraordinary problem. Mr. Speaker, this legislation is a positive first step which deserves our wholehearted support.

Mr. DREIER of California. Mr. Chairman, I rise in support of H.R. 5484 and this national declaration of war on drugs. H.R. 5484 should mark an end to Government complacency over the dire need to readdress aggressively the issue of illegal drugs in our society.

I support the bill's broad scope which seeks not only to reinforce our efforts abroad to interdict drugs at their source but to focus on the domestic demand. With this legislation, funds will be provided for community-based drug eradication efforts and a national advisory council will be created to deal specifically with shrinking demand and deglamorizing drugs among young Americans. In the same breath the Omnibus Antidrug Act gives the United States the power to persuade drug producing countries that it is no longer in their interest to preserve this immoral but lucrative industry. As for the notorious drug trafficker, the unscrupulous leeches which feed on the pain, suffering and ignorance of the drug user. This package dramatically stiffens mandatory

penalties for pushers in the spirit of "deal drugs, go to jail."

Therefore, Mr. Chairman, I reiterate my support for H.R. 5484 and commend my colleagues for working in a truly bipartisan manner to strike down the evil menace of drugs which threaten to destroy the fiber of this Nation from within.

Mr. GALLO. Mr. Chairman, as a sponsor of this Omnibus Antidrug Act, I believe that we must have a comprehensive Federal antidrug abuse policy that addresses every phase of this complex problem.

The seriousness of this tragic drug epidemic has been obvious for quite some time.

The recent deaths of two famous athletes have focused national attention on the tragedy of drug abuse.

Revelations of suburban, as well as urban, drug abuse are not new. But, the recent CBS documentary showing the effect of "crack" and other drugs in our northern New Jersey communities brings the whole issue very close to home.

I have heard from distraught parents and law enforcement officials who lack the tools to stop the illegal use of drugs within their communities. Those very real needs are not fully covered within our current codes of criminal justice.

I have spoken to young people within my district who have told me that "crack" is easily obtained.

I have attended drug prevention assemblies in our schools where you could hear a pin drop as young people who were former drug abusers told their stories of thievery and prostitution to support their habits.

We know that we have a real problem.

But the actions needed to treat this disease in our society have not been as obvious.

Since 1981, the Reagan administration has been putting increasing pressure on the importation of drugs and has pressured other countries to eliminate illegal production.

As Members of Congress, we have been attempting to create a drug prevention program piecemeal for several years. Now, we have done what many of us felt was the right thing to do for quite some time. We have brought all of these individual proposals together in one bill.

This bill has strong bipartisan support and takes an across-the-board approach to our drug problems. It puts teeth in our efforts to stop drugs coming into the country and backs it up with a multibillion-dollar financial commitment.

It provides our local law enforcement officials with the tools they need to increase their efforts. And, it expands current efforts to provide treatment for those individuals who have become physically or psychologically addicted to these substances.

The bill cracks down on designer drug-makers, money launderers, and traffickers, with mandatory sentences up to life imprisonment for those contributing to drug-related deaths.

It creates a comprehensive drug education and abuse counseling network to help prevent this epidemic from spreading.

The bill also steps up Coast Guard and Customs efforts with additional personnel and

equipment and calls for a Presidential study on the possible uses of National Guard forces in the antidrug fight.

Mr. Chairman, I urge my colleagues to support this comprehensive approach and then to go one step further to break the biggest link in the chain of drug production, delivery, and dependency.

I am referring to the organized system that exists exclusively to make big money by distributing imported, watered down, and repackaged illegal drugs for street sales.

Criminals who are making big money from this illegal enterprise and whose actions result in the death of another person deserve the most severe possible sentence. I feel the death penalty should be an option for juries in this particular instance.

I urge my colleagues to support this death penalty provision being offered as an amendment today, and strongly urge my colleagues to support this comprehensive legislation.

Mr. McGRATH. Mr. Chairman, during the last few weeks the media has been reporting the hype generated by both bodies of Congress over the Omnibus Drug Enforcement, Education, and Control Act, a measure which will provide the necessary armor to fight drug abuse.

Congressional concern over this issue is well founded. Drug abuse in our country has reached dangerous proportions. We have recently witnessed the cocaine-related deaths of two popular athletes. Our daily newspapers document that crack is being used, on a large scale, by all economic categories of our society.

A recent New York Times/CBS News poll indicated that two-thirds of the respondents would support an increase in taxes to jail drug sellers. While some are shocked by this poll, I think the message is extremely clear—the costs of drug abuse are taking their toll on our society, both economically—through increased medical costs, and emotionally—by draining our work force and human spirit.

In New York alone, there were 137 deaths due to cocaine use within the last year. During the 1984-85 school year, 6,000 individuals were arrested for selling illegal drugs to schoolchildren, and over 60 percent of our prison population in New York were convicted of drug- or alcohol-related charges.

I think the House should be commended for developing this legislation and bringing it to the House floor. This effort is long overdue. The omnibus antidrug measure will increase penalties for drug-related offenses and will establish a minimum 20-year jail sentence for drug trafficking and manufacturing which results in serious injury or death. Additional funds will be provided for the Drug Enforcement Administration, prison construction, and drug enforcement grants to local police. The current crime of selling drugs near school grounds would be extended to include colleges and universities, and the bill would create a new offense against using children to distribute or manufacture drugs.

In New York State, the legislation will provide funds in the form of matching grants for drug enforcement; authorize money to assist the Customs Service in the State; provide additional funding for Federal prison construction and operations; authorize several million dol-

lars to New York's drug treatment and rehabilitation services; and additional money for our State's education and drug prevention programs.

In addition, I was pleased to see my amendment, as introduced in the Ways and Means Committee, included in the final package. My amendment will encourage individuals participating in international trade to come forward and aid the Customs Service with useful information to apprehend criminals. The proceeds of the Customs forfeiture fund will be available to reimburse private citizens for expenses incurred in assisting Customs enforcement efforts. It is my hope that the publicity surrounding these awards will generate new information and new arrests.

The menace that illegal drugs poses to our Nation has finally begun receiving the attention that it demands. Now that my colleagues in the House accept this reality, I hope our efforts will be mirrored by the other body.

Mr. FUSTER. Mr. Chairman, I rise in support of the Omnibus Drug Enforcement and Control Act (H.R. 5484) particularly regarding the provisions that recognize the importance of Puerto Rico as one of the crucial borders of the United States. This comprehensive bill contains several measures of importance to the Commonwealth of Puerto Rico which will help us to continue our longstanding fight against the substantial drug traffic which flows to and through our island from abroad.

Stemming the flow of drugs is very important to the 3.5 million American citizens of Puerto Rico since drug traffic and crime in the island have increased alarmingly during the past recent years to become the most important problem which Puerto Rico faces today. The numbers are shocking. Crime due to drug trafficking is suffocating our small island. The murder rate in 1985 was more than twice the national average and increased, in San Juan, a further 61 percent in the first months of this year. Robbery was at a level approaching twice the national average and, during the first months of 1986, increased another 44 percent in the metropolitan areas. A violent crime related to drugs is committed every 4 minutes in Puerto Rico and studies conducted at the University of Puerto Rico show that the real figures for some of these crimes can be up to 2.8 times the amount indicated in the statistics collected by the Commonwealth police department. Even so, the police department estimates that the type I crimes including homicide, robbery, burglary, and theft, which are largely drug related will reach an all-time high of 118,560 in 1986 despite the fact that the size of the police department budget has increased 24 times over the 1950 level.

The U.S. attorney in Puerto Rico and the police superintendent estimate that between 70 and 85 percent of those crimes are drug related. Given this figure, it is not surprising to find that the Federal authorities alone have confiscated close to \$2 billion in drugs in the past 3 years. A recent drug raid conducted less than a month ago, and code named Operation Pedestal, involved 270 Federal agents, mostly flown in from the United States. It also included more than 70 Puerto Rican agents plus our local SWAT team. That operation resulted in 62 arrests and 51 more were anticipated. The drug ring that was broken by this

particular raid stretched from the Netherland Antilles, Venezuela, and Colombia to Puerto Rico, New Jersey, and Florida and carried out at least 12 so called drops. Surprisingly enough, this particular ring concerned itself only with the local market, although such a huge operation would seem too big for Puerto Rico. Upward of \$3 million in property were confiscated, including 16 residences, 9 automobiles, 3 boats, and 2 airplanes.

The New York Times of August 17, writing about Operation Pedestal stated and I quote:

Officials of the Drug Enforcement Administration say Puerto Rico is a major transshipment point for drugs, particularly marijuana and cocaine, that are bound for the United States [mainland].

Because Puerto Rico is formally a point of entry to the United States, there are no Customs Service checks on flights bound from the Commonwealth to the United States. The Drug enforcement agency says that 80% of the Drugs that reach the island are transshipped to the United States. An official involved in the raids said only a small part of the drugs brought in by those indicted by a federal grand jury here Monday had been shipped to the United States.

If this ring accounts for only a fraction of the 20 percent of drugs that enter Puerto Rico, I shudder to think what the total volume is, considering the fact that the local addict population is estimated at 300,000.

The importance of Puerto Rico as a border, in both national and local terms, cannot be underestimated and, as the U.S. attorney in San Juan stated, crime in Puerto Rico will not decrease until we control the drug problem. He is concerned that the situation in Puerto Rico will grow worse due to the rapid inroads "crack" is making in Puerto Rico. Recently confiscated cocaine paste suggests the existence of drug-processing laboratories in Puerto Rico, something new to the island.

The importance of the Commonwealth of Puerto Rico as a transshipment point is due not only to the fact that it is strategically located, that our common borders allow unrestricted and unchecked access to the mainland, but also to the gaps in the existent radar coverage of the island. The Federal Aeronautics Agency radar in Puerto Rico are mainly geared toward commercial traffic. Some controllers have been known to cooperate with the drug traffickers. As a result, those controllers were among the ones arrested recently. Using personnel common to the Puerto Rico Police Department and the National Guard, some temporary radar facilities are being operated for more than 8 hours during the day. At night, when smugglers operate, radar coverage is clearly inadequate despite our best efforts. In a recent meeting with the former special agent in charge of the Drug Enforcement Administration as well as the current special agent in charge for Customs, I was told that the most effective way to reduce drug traffic and particularly illegal flights under the 5,000-foot level, was to install an aerostat in the island. A significant portion of the hundreds of miles of coasts in Puerto Rico is inadequately monitored. In fact, top DEA and Customs officials in Puerto Rico have said to me personally that Federal agencies in Puerto Rico do not have the technical capacity to

detect low-flying aircraft, particularly at the southwest coast of the island, which is the one closest to Central and South American drug sources.

Puerto Rico is one of the three major "choke" points in the fight against narcotics and its importance in stemming the flow of drugs cannot be overlooked. The Government of Puerto Rico and the Federal agents in Puerto Rico need our help. Through their concerted efforts, I am happy to announce, Interpol has decided that they will establish an office in Puerto Rico soon. However, this is not enough. We need more help. This is why I believe that in addition to the several provisions of H.R. 5484 that deal with or apply to Puerto Rico, this Congress should also express its intention that one of the seven radar aerostats provided for in title II of H.R. 5484 should be placed in Puerto Rico.

The aerostat which we are asking for U.S. Customs operations in Puerto Rico will not only benefit the 3.5 million United States citizens of Puerto Rico but all the citizens of the Virgin Islands and the Nation as a whole. We simply cannot ignore them.

We cannot solve our drug-related problem unless one of the aerostats made available under other provisions of this bill is placed in the island. As I have said already, Puerto Rico has been recognized by the United States DEA as one of the three major entry points for illicit drugs from abroad. The United States district attorney in Puerto Rico has estimated that drugs worth billions of dollars are coming to Puerto Rico and the mainland through the island's border. Without adequate equipment, such as the aerostat, this huge gap will persist. It behooves this House to help resolve this situation.

Before concluding, I would like to thank Congressman SEIBERLING from Ohio for recognizing the need for increased radar coverage in Puerto Rico. I also want to thank the other members of the Interior Committee and of the Select Committee on Narcotics for the attention they have given to the serious crime and drug problems in Puerto Rico and for the help they have provided me in drafting the parts of this bill that deal with Puerto Rico.

I am particularly grateful for the help received from them and from the leadership in my efforts to assure that the Commonwealth of Puerto Rico is given additional resources to continue the strong battle against drugs that we have been waging in the island for several years now.

Mr. ARMEY. Mr. Chairman, this is war. No foreign enemy, however insidious, could possibly have wrought as much destruction on our young people in peacetime as drugs have. We all know what's happening. Lives are being lost, careers ruined, families broken, and dreams destroyed. We've had enough talk; the time has come to act. We need a comprehensive national strategy to combat drug abuse, and we need it now. That's what this omnibus drug bill is all about, and I wholeheartedly support it.

The size of the problem is truly staggering. Almost 60 percent of the world's entire population of illegal drugs ends up in the United States. That's more than 12 million tons of

heroin, 65 million tons of marijuana, and 150 million tons of cocaine crossing our borders in this year alone, adding up to \$120 billion in sales, more than the net sales of General Motors.

We, as Americans, and particularly as parents of teenagers, have to become more aware of the dangers of drug abuse and take action to stop it. By necessity, much of the responsibility for discouraging young people from seeking the illusory pleasures that drugs seem to offer falls on families and local communities. This omnibus drug bill, however, embodies what the Federal Government can do to see that drugs are not available to those foolish enough to seek them.

Sure this bill costs money, wars tend to do that. But we must recognize that there are both legitimate and illegitimate functions of government; the trick is to be able to tell the difference. If defending our country, enforcing our laws and saving the lives of our young people are not proper responsibilities of government, then what is? I'm going to keep on cutting the fat out of the Federal Government, but I'm going to leave the muscle alone.

The drug bill imposes mandatory sentences on drug traffickers, bans so-called designer drugs, beefs up the Drug Enforcement Agency, and gives the Government the ability to control our borders. All of this is long overdue. I'm prepared to do whatever it takes to end this national tragedy of drug abuse, and I'm sure that every tax paying citizen out there agrees with me.

Mr. McDADE. Mr. Chairman as a coauthor of the comprehensive drug bill being considered today, I rise in strong support of enactment of this important legislation. The overwhelming problem of drugs needs to be dealt with severely, efficiently and effectively.

The clock on this Nation's drug problem is not just running, for may it has already run out. The fabric of society is being eroded, and it is essential that Congress address this problem in a responsible and timely manner.

This legislation takes needed steps to increase enforcement of drug laws, toughen penalties for narcotics trafficking and improve drug abuse education, treatment and prevention programs. The bill offers a broad approach to a problem that can no longer take a backseat in our list of priorities. Our constituents recognize the drug problem as a top domestic concern, and we must not ignore their call for action.

Of the people, by the people and for the people is the best definition of our democratic form of government that I have heard. It is not just our way of life stressed and strained by the drug problem, but society itself is threatened with destruction unless we act. It is time for the Government to respond on behalf of the people.

It is clearly time for the Congress and the citizens of this Nation to join together and direct our resources and our determination toward combatting the drug problem. Hand in hand, we must work to educate, enforce, prevent and attack this problem. We can afford to do no less. The time for mitigation is over. The time for action is now.

Mr. Chairman, when the House concludes

its consideration of this legislation, I trust that my colleagues will join with me in giving this measure our whole-hearted and overwhelming support.

Mr. GEJDENSON. Mr. Chairman, I rise in strong support of H.R. 5484, the Omnibus Drug Enforcement, Education and Control Act of 1986.

Americans have spoken loud and clear on the subject of drug trafficking and abuse: they are sick and tired of losing generation after generation of young people to illegal drugs. Americans have lost too many friends, too many neighbors, and too many children to merely stand by and watch more young lives go down the drain. The people of Connecticut, as well as the people of every State in the Nation, want strong action against drug trafficking and they want it now.

This legislation brings Congress into step with the desires of this Nation's people. This excellent legislative package assembled through a bipartisan effort of the House leadership sends a clear and distinct message to drug traffickers and pushers here and abroad: America will not complacently watch illegal drugs flow over its borders and destroy the minds and bodies of those we care most about.

I am especially pleased that this legislative initiative increases funding for drug education programs in our Nation's schools. When I introduced my own legislation to promote drug education programs in January, the Student Chemical Substance Abuse Prevention Act, I received an outpouring of response from people in eastern Connecticut who welcomed increased support for drug education programs. They firmly believe, as I do, that America's drug crisis will only be solved when young people clearly understand the hazards of illegal drug use and the many options available for treatment and rehabilitation.

The drug education provisions of this legislation, which have been carefully crafted by the Education and Labor Committee, will be particularly effective in fighting the war on drugs because State and local school districts, not the Federal Government, will be charged with developing individualized and school-specific solutions to the drug problem. Each school system has to fight its own style of war against drug abuse, and I am pleased that the Federal Government has belatedly stepped in to help them fight that war.

Despite the specific nature of each school's drug problem, there are certain truths which can be discovered about the causes of drug abuse and the most effective ways of telling young people about the hazards of using illegal drugs. By funding drug abuse education demonstration programs, my legislation and the legislation we are debating today will save the Federal Government millions of dollars by preventing reduplication of needed drug abuse research and by encouraging school systems to look at the experiences of other school systems.

I, therefore, urge my colleagues to approve this comprehensive legislation. We cannot and must not wait to act until another generation of young people are lost to drug abuse.

Mr. WALGREN. Mr. Chairman, I rise in support of the Omnibus Drug Enforcement, Education, and Control Act and want to say how important it is, in my view, that the House is giving drug abuse priority attention. The problem of drug abuse in this country is growing. Almost 3 out of 4 young people now will try an illicit drug before they reach their mid-twenties. And despite tragic deaths demonstrating the hazards of cocaine, only 34 percent of those in twelfth grade believe there is a real risk in trying cocaine—a figure reflecting practically no change since 1978. Clearly more education and prevention efforts are needed since our children are continuing to experiment with drugs.

Prevention of drug abuse begins in the home. But the Government has a critical role. This bill places emphasis on a number of fronts: Stronger penalties for those trafficking in illegal drugs, new treatment programs for those addicted to drugs, and new efforts to stem the production and distribution of drugs from foreign countries. The bill requires trade sanctions on foreign countries that are sources of illicit drugs. Denial of preferential tariff treatment or imposing added duties if a country does not cooperate with U.S. efforts to reduce drug trafficking is only common sense self defense. The bill also requires drug-producing countries to establish eradication programs as a condition of receipt of U.S. aid. And the bill adds funds and manpower to the Coast Guard and Customs service to increase the effort to stop illegal drugs from entering this country.

As a participant in the development of parts of this bill in the Energy and Commerce Committee, I want to underscore the value of one of my amendments to give priority to young people, ages 15 to 24, in establishing and conducting treatment programs. Our greatest leverage on drugs is to stop young people before they start. Young people do most of the experimenting with drugs. Over one in two high school seniors have used illicit drugs. My amendment would focus our prevention money where the problem is and where the money would be best spent.

A second amendment I authored would require the Secretary of Health and Human Services to contract with the Institute of Medicine to study of the extent and adequacy of public and private insurance coverage or other payment sources for drug and alcohol treatment. We have little information on health insurance coverage of drug rehabilitation. When seeking treatment for drug and alcohol abuse, like so many other medical problems, people need public or private insurance coverage to assist in paying for what can be expensive services. In many cases, people just assume their insurance covers drug rehabilitation, but learn that it is quite limited. If treatment programs are not covered, people are not able to break their addiction. This study will be a first step toward determining whether we have to improve coverage and if so how much.

Drug abuse is a wide ranging problem in our society and calls for a multi-faceted approach. No single committee or government agency can tackle the problem alone. Clearly, more than public relations campaigns are required.

This bill is a concrete step toward effectively combining our resources to tackle and defeat drug abuse.

Mr. DASCHLE. Mr. Chairman, I rise in support of H.R. 5484, the Omnibus Drug Enforcement, Education and Control Act, which authorizes funding for a wide variety of programs designed to strengthen the enforcement of drug laws, stem the flow of illegal drugs into the country, increase penalties for illegal drug activities, expand Federal prison facilities, and assist drug education and treatment to prevent drug abuse.

This bipartisan legislation is the product of the combined efforts of 12 House committees and incorporates all or part of 20 drug-related bills previously introduced in the House of Representatives. It is the most sweeping drug control measure ever considered by Congress, and I am pleased to be a cosponsor of this important initiative.

House consideration of this comprehensive proposal is recognition of this body's concern about the tremendous toll which the drug problem is taking on the fabric of our society. It also reflects growing sentiment throughout the country that the Federal Government should take the lead in controlling this national problem and represents tacit acknowledgment that past and current antidrug efforts have been insufficient.

The fact of the matter is that for years Washington has bungled the battle against illegal drugs. We seem to be forever launching a new antidrug campaign which, after the initial fanfare, quickly recedes into the background, while the human cost of illegal drugs grows ever greater.

The magnitude of the drug problem in our country dictates that we can no longer tolerate occasional pronouncements of concern followed by prolonged periods of inaction. It is time to take serious, comprehensive action against the drug problem. The "war on drugs" must move from the realm of empty rhetoric to that of grim reality.

We have an opportunity to initiate such action today through passage of the Omnibus Drug Enforcement, Education, and Control Act. This legislation holds real promise for progress in the fight against drugs.

The key to this effort is the word comprehensive. For the first time, we could have an antidrug program that does not pretend the problem can be solved just by intercepting drug shipments or just by educating users or just by attacking drugs at their source.

The fact is that illegal drugs must be fought at every stage: in the countries where they originate; at points of entry into the United States where they may be intercepted; on the streets where they are sold; in the homes and schools where education against their use must be delivered; and at the clinics where their users can be rehabilitated. That is the approach embodied in the bipartisan Omnibus Drug Enforcement, Education and Control Act.

H.R. 5484 seeks to strengthen interdiction and eradication efforts and improve drug en-

forcement, education, research and education. Specifically, it would:

1. Increase penalties for various narcotics offenses and mandate a prison term of 20 years to life imprisonment for drug trafficking and manufacturing that results in serious injury or death;
2. Authorize additional funds for numerous drug-related law enforcement activities, including additional Drug Enforcement Administration [DEA] efforts, prison construction, and State and local drug enforcement assistance;
3. Increase funding for the Coast Guard to provide for more personnel and equipment to help stop the flow of illegal drugs into the country;
4. Increase Customs Service authorization to improve drug interdiction;
5. Make it easier to detect and prosecute money laundering, which is frequently used by drug traffickers to hide their illicit profits;
6. Require drug-producing countries to establish eradication programs as a condition of U.S. support for multilateral development bank aid;
7. Impose trade sanctions on drug producing or exporting nations that refuse to cooperate with U.S. antidrug efforts;
8. Provide additional funds for drug interdiction and eradication programs in foreign countries;
9. Permit U.S. agents to accompany foreign police on drug raids;
10. Authorize funding for Defense Department procurement of antidrug equipment and assign Coast Guard personnel to Navy ships to make arrests in drug smuggling areas;
11. Create grant programs for local drug education and treatment programs and fund Indian drug abuse programs;
12. Mandate Federal drug education programs and a demonstration program to determine the feasibility and cost of drug treatment under Federal health plans; and
13. Require the President to recommend a reorganization of executive agencies to better combat drug trafficking and abuse.

Mr. Speaker, there is no problem more tragic to the families it destroys, or more menacing to our society and its citizens, than drug abuse. Defeating drugs will take the combined, continuing efforts of the President, both parties in Congress and, especially, the public.

The Omnibus Drug Enforcement, Education and Control Act is a realistic centerpiece for this effort. I urge my colleagues to vote for H.R. 5484, and I hope that the Senate will follow the House's lead on this important issue so that a comprehensive antidrug bill can be sent to the President to be signed into law this year.

Mr. MAVROULES. Mr. Chairman, I rise today in strong support of H.R. 5484, the omnibus drug bill. This legislation before us today represents a comprehensive initiative which effectively addresses the issues of enforcement, prison construction, interdiction of drugs from foreign nations, and education.

This bill is broad in scope and crosses the jurisdictional lines of numerous House committees. I would like to congratulate the Speaker and the majority and minority leaders for the guidance they have given all of us on this landmark legislation.

Certainly no one needs to remind the families of those individuals who have been scarred by drug abuse of the need to take drastic action on this issue. They know the pain of a young person gone astray or of a promising life ended prematurely, due to the misuse of illegal drugs.

The American people have developed an increasing awareness of the problems associated with drug abuse. A recent New York Times survey revealed that 13 percent of all Americans believe that drug abuse is the most important problem facing the Nation today. This contrasts with only 2 percent who held this position in a similar survey in April of this year.

Mr. Chairman, these people know that the cost of drug abuse is high; both in human terms and in lost worker productivity in our Nation's businesses. They also know that use of illegal drugs is no longer isolated to urban neighborhoods or along racial lines. This has become an issue of paramount importance to every American.

Any effective drug plan must have an effective educational component, one which provides drug education at an early age. In this regard I would like to take note of the fact that the section of H.R. 5484 which was drafted by the Committee on Education and Labor includes many of the most successful provisions of the Governor's Alliance Against Drugs; a very successful State program initiated by Massachusetts Governor Michael Dukakis.

In conclusion, Mr. Chairman, the problems associated with drug abuse have no Democratic or Republican solution. The bipartisan effort that has brought this bill before us today is testimony to that fact. I would urge all of my colleagues to support H.R. 5484.

Mr. DASCHLE. Mr. Chairman, I want to commend you, the distinguished majority leader, and the various House committee chairman and ranking minority members who worked so hard to put together this comprehensive approach to the tragic problem of substance abuse in America. All Members of this body are aware of how rapidly this epidemic is spreading throughout our society. It crosses all socioeconomic, racial, ethnic, and geographic lines, and it is fitting that we address this problem in a bipartisan manner.

I am proud to have worked with the chairman of the Interior Committee, Mr. UDALL, as well as Mr. KILDEE from the Education and Labor Committee and Mr. WAXMAN from the Energy and Commerce Committee to formulate the provisions of this bill dealing with substance abuse as it occurs among native Americans. This section addresses a distinct aspect of substance abuse within our society, and I am pleased that it has been incorporated into this comprehensive legislation.

My friend from Nebraska, Mr. BEREUTER, and I have been working with the Indian community for approximately 3 years on a comprehensive approach to combat alcoholism on Indian reservations. The product of those 3 years of work is the Indian Juvenile Alcohol and Drug Abuse Prevention Act (H.R. 1156), which was passed by both the House Education and Labor and the House Interior Committees this summer.

Three years ago, Mr. BEREUTER and I were aware that there was a serious problem with alcohol and drug abuse on America's Indian reservation. But as we get more and more involved in the issue, the scope of the problem loomed larger than either of us had ever suspected.

The problem of substance abuse among native Americans is serious across-the-board, but it is especially among Indian youth. Recent studies have indicated that at the tender age of 11, one-third of all Indian children have used alcohol with some frequency. Over and over we listened to tragic stories about young people destroying their lives by abusing drugs, alcohol, and readily available inhalants like Lysol and other cleaning fluids, paint thinners, and antifreeze.

If we ever hope to combat the problem of substance abuse on Indian reservations, our single best hope is to take a preventive approach and focus our best efforts on Indian children at an early age.

Many troubling health and social problems on Indian reservations today can be directly linked to the abuse of alcohol and drugs. IHS statistics reveal that Indian youth are two times as likely to commit suicide as the general population—80 percent of those suicides are alcohol-related. Indian young people are tragically killed in automobile accidents more than twice as often as the general population—75 percent of those losses are alcohol-related. Finally, young native Americans are about 16 times more likely to die prematurely because of chronic alcoholism than the average American. This is clearly a present and growing tragedy of great proportions.

I would further point out to my colleagues the the health and social problems associated with alcohol and drug abuse only intensify later in life for the untreated substance abuser. IHS hospitals today are taxed to the limit with patients suffering from diseases directly associated with substance abuse: chronic liver disease, cirrhosis, alcoholic psychoses, and alcoholic dependence syndrome. Young mothers abusing alcohol during pregnancy have caused the incidence of Fetal Alcohol Syndrome among newborn native Americans to skyrocket, carrying over the detrimental effects of substance abuse to the next generation of Indian children.

Administration officials have correctly stated that alcohol and substance abuse are the most serious health and social problems facing Indian people today. Despite this acknowledgement, the BIA and the IHS have assumed little responsibility in coordinating their various efforts to focus on the epidemic of drug and alcohol abuse. The IHS, for instance, has directed only one percent of its budget for substance abuse programs. H.R. 1156 clearly and emphatically calls for a coordination of Federal resources between the IHS, the BIA, the Department of Education, and other relevant programs so that Indian people can establish a specialized framework to effectively attack the scourge of drug and alcohol abuse.

The ray of hope that has continually shone throughout our discussions of this issue was the testimony of Indian people. Over and over, Indian people from all over the country indicated their desire to battle this extensive prob-

lem head-on. In a series of congressional hearings in Washington, Albuquerque, Phoenix, and Rapid City, SD, tribal officials, parents, teachers, elderly people, and, of course, young people themselves came forward to offer their positive suggestions on how we can work together to address the problem. These people are ready to fight substance abuse problems today. We owe it to them to provide an effective mechanism to use in their battle against drugs and alcohol on Indian reservations.

The Indian provisions of this bill recognize that the people who are most willing and able to combat these problems on the reservations are not far-removed Federal officials—they are the local Indian people themselves. Our bill directs the Federal Government to identify, coordinate, and focus its resources toward preventing alcohol and drug abuse among Indian youth, through a memorandum of agreement between the IHS and the BIA. But the success of the program really will depend in large part upon the locally established Tribal Action Plan [TAP].

The legislation calls for a Tribal Coordinating Committee [TCC], which will consist of a tribal government representative, officials from the IHS service unit and the local BIA agency office, and other individuals identified in the Tribal Action Plan. The TCC will be the catalyst which will implement the Tribal Action Plan and will be responsible for ongoing review and evaluation of the Tribal Action Plan. The TCC, for example, will be the entity that will decide which local individuals will receive training in substance abuse prevention and treatment, decide how those persons can use their training most effectively in a culturally relevant program, and later evaluate that same program to assess its effectiveness.

This bill envisions that local citizens will take control of their individualized tribal programs. The TCC may, for example, explore the possibility of setting up summer youth programs at local schools to provide a constructive outlet for youthful energies. The TCC will identify school teachers, counselors, community health representatives [CHR], law enforcement officials, or other local people to receive training in prevention and treatment of alcohol and drug abuse. It will coordinate with State, local, and Federal officials to improve and expand local substance abuse treatment facilities and emergency shelters available for young native Americans.

The TCC will utilize all available State, Federal, and private funding to implement its Tribal Action Plan. The Federal Government should, as much as possible, direct existing resources and expertise toward tribal activities to combat the problem it acknowledges is the most serious health and social problem of the Indian constituency they are mandated to serve.

As the statistics I quoted earlier make clear, nothing is more costly to Indian people, in physical, mental, social, and economic terms, than the consequences of substance abuse. This situation must be addressed now, or we will ultimately have to face the health and social consequences of our neglect again and again in the years to come.

I am honored to have contributed to the Indian section of this well-crafted comprehensive bill. It is a first step, but a critical first step. This bill assumes a certain amount of dedication and cooperation from the administration, and I expect we will have that commitment. I am even more certain that local Indian people will seize this opportunity and enact a comprehensive plan of action to fight alcoholism and drug abuse on the reservations, and, with the help of Federal, State, and local officials and private sources, they will win the battle against drugs and alcohol.

Mr. Chairman, I again thank everyone who contributed to what I think is a very good piece of legislation. I strongly urge passage of the bill.

Mr. KOSTMAYER. Mr. Chairman, I rise in strong support of H.R. 5484, the omnibus drug enforcement bill which will strengthen the enforcement of drug laws, help stem the flow of illegal drugs into the country, increase penalties for illegal drug activities, expand Federal prison facilities, and increase drug education and treatment to prevent drug abuse.

It's particularly appropriate that as schools reopen this month, we focus our attention on the drug crisis. Drugs are having a devastating effect on every community in the country, in the suburbs and rural communities which I represent, as well as our cities, large and small.

Parents certainly have cause to be concerned about the level of drug abuse in our country. The statistics, and what they bode for the future, are frightening. Last year the Drug Enforcement Administration estimated 75 tons of cocaine were smuggled into the United States. This year the estimate exceeds 150 tons. This is a national crisis, Mr. Chairman, a crisis which demands bold action and the combined efforts of Federal, State, and local officials.

That's why this bill is important, and timely. It addresses the major areas where action is needed.

First, in drug enforcement. We've heard a lot of rhetoric lately about "getting tough" on drug dealers, and drug smugglers. The plain truth is we've not been providing the resources to our enforcement personnel, and political rhetoric alone won't get the job done.

In the coming year it's estimated that as many as 8,000 smuggler aircraft will make illegal flights across our borders. Fully 60 percent of cocaine entering the United States arrives in small, private aircraft.

It's an enormous logistical problem to intercept these small, low-flying airplanes. Currently in our entire Customs Service there are only six aircraft which can intercept and follow planes, and just eight helicopters to carry law enforcement officials to arrest smugglers. And there are fewer employees in the Customs Service today than in 1980. This is in spite of the fact that narcotics trafficking has increased manifold during the same period.

The Customs Service is obviously undermanned and under-equipped and underfunded for its task.

The situation is no better at sea. Hundreds of boatloads of cocaine will arrive in south Florida from the Bahamas this year. The Customs Service and Coast Guard will be lucky to intercept 5 percent of these shipments.

It's clear that there simply has to be more and better enforcement. We've got to get control of our borders back from the drug smugglers.

This bill increases funding for the Coast Guard and Customs Service—reversing the trend of recent years. This money—\$150 million in 1987 and 1988—will go directly for purchase and operation of new equipment, and will restore the military strength of the Coast Guard to 39,900, about the level it stood in 1981.

The bill, Mr. Chairman, also makes strides in the area of foreign cooperation. As a member of the Foreign Affairs Committee, I am pleased to have had a hand in the writing of these new provisions.

Greater efforts must be made to enlist the help of governments in those countries where drugs are grown and processed, and from which illegal shipments originate.

Some countries, unfortunately, have corrupt officials who profit by ignoring illegal drug activity. There are ways to pressure governments to get rid of these officials, and to work with our police and intelligence personnel.

Last year in Paraguay, for example, 49,000 gallons of ether, acetone, and hydrochloric acid—chemicals used in the processing of coca into cocaine—were seized as they were unloaded from Germany. It was obvious the chemicals were destined for use in an illegal drug-processing operation somewhere in South America, and United States officials were concerned that the Paraguayans would release the shipment. As a member of the Foreign Affairs Committee I traveled to Paraguay and met personally with President Stroessner, and assured him of our country's grave concern that these chemicals be destroyed or returned to Germany. I subsequently transmitted to him a letter signed by over 60 of my colleagues reaffirming the urgency of this matter. As a result of this pressure, and the efforts of our Ambassador, and State Department narcotics officials, the Paraguayans did cooperate with our enforcement personnel, and the seized materials were returned to Germany.

When countries do not cooperate, we should make clear that any military or economic aid they receive will be terminated.

Of course, Mr. Chairman, as long as there is rising demand for cocaine and other drugs in our country, the supply and smuggling problem will not go away.

We've got to educate our young—before they're corrupted by drugs—of the dangers of drug use and abuse. Parents, teachers, and local police and government officials must ensure that every school child gets the message: "Say no to drugs."

In 1981, \$14 million was spent in Federal funding for drug prevention and education. That figure is now \$2.5 million a year, an enormous decline. This program must be revived, and reinvigorated, and made a key part of school curriculum.

This bill begins that process. Title VIII of the bill authorizes \$350 million in 1987-89 for the development of drug abuse education programs run by State governments and local schools and education agencies. Some of the costs of these programs will be offset by

funds seized by the Customs Service and the Justice Department from illegal drug activities.

Mr. Chairman, I look forward to working with local school systems to ensure that adequate funding is available so that each and every school in Bucks County and eastern Montgomery County in Pennsylvania has a drug education program.

H.R. 5484 is an important bill, Mr. Chairman, perhaps the most important the 99th Congress will consider. I urge my colleagues to support it.

Mr. KOLBE. Mr. Chairman, I rise in support of H.R. 5484. This legislation seeks to remedy a problem which has split families, drained our economy, killed innocent citizens, and undermined the credibility and effectiveness of our primary and secondary educational systems. Drugs are tearing asunder the very fabric of our society.

The fact that this bill has moved through the House more quickly than any other piece of omnibus legislation yet this year is testament to the gravity of the problem, and the need to find realistic solutions. And we have already taken the first steps toward accomplishing that.

Last month, WW launched "Operation Alliance," an initiative aimed at combating the drug traffic across the Mexican border. This initiative establishes the organizational framework, and interagency cooperation necessary to wage a war against drugs. Now, it's our turn to stand, as we must, to say that Congress believes this war on drugs must be a priority for spending. I have already made my priority clear, with the vote I cast a few weeks ago for H.R. 5161, the combined Commerce, Justice, State, the Judiciary, and Related Agencies Appropriation Authorization Act of 1987. Though a strong proponent of limiting spending—and I voted against most of the fiscal year 1987 appropriations bills because they do not hold the line on spending—I voted for increased spending in this bill because the money would go to the war on drugs. This spending should be a priority.

My district lies in southern Arizona, sharing more than 100 miles of border with Mexico. It is no secret that the entire Mexican border area has been a highway for drugs coming into the United States. Some of these substances originate in Mexico. Others originate in Bolivia, Colombia, and other Latin American countries. Some even originate in the Orient, and are brought through extensive networks to our southern border. It's time for us to padlock the door.

Crime—often violent crime—has historically been associated with this trafficking activity. We don't have to look beyond the borders at the tragic death of such people as our DEA officer, Enrique Salazar, to be reminded that a war is going on in our communities and on our streets. Teenagers are stabbed to death in a classroom. A cab driver is shot in the head for a few dollars that will buy one more fix. People in my communities are erecting bars on their doors and windows to protect themselves from the burglar who needs to feed his increasingly expensive habit.

A change in this dismal situation can only come about if we combine the resources of Federal, State, and local law enforcement

agencies. The problem is simply too massive for any one of these components to handle alone. And the stakes are too high to allow us to fail or to permit a haphazard, hit-or-miss approach to the problem.

But we must also recognize that all the money in the world won't solve this problem. As long as there is a demand for drugs, there will be individuals who are willing to take the risk to supply them. The monetary rewards are simply too great. So how do we slash the demand for drugs?

The answer is not a simple, nor quick, nor politically attractive. But, in the long run, it is our best hope to solve this problem. We must have programs in the schools, on television, in recreation centers for youth which not only alert them to the problems of drugs, but give youngsters the self-confidence to say "no" when their peers encourage them to use and abuse a substance which can only cause them harm.

That won't be easy, but we can do it. We have the experience of drunk driving to know that public attitudes about its seriousness can be changed. We need a national campaign to change attitudes about substance abuse—not for adults, but for young people when they are forming their views and making their judgments about such matters.

The answer, then, to the drug "crisis"—and it is a crisis—which confronts us today is the dual approach suggested by this legislation: On the one hand, better enforcement of tougher laws to reduce the supply of drugs; and on the other hand, greater emphasis on drug prevention, education, and rehabilitation programs that reduce the demand for drugs.

Passage of this legislation won't solve our problems with substance abuse in America. But it will help the time for action is now.

Mr. MANTON. Mr. Chairman, I rise in strong support of H.R. 5484, the Omnibus Drug Enforcement, Education and Control Act of 1986. As an original cosponsor of this bill, I believe this is one of the most important bills to be considered by the 99th Congress.

Mr. Chairman, our Nation faces a drug epidemic which is destroying our youth, increasing the rate of violent crime and ripping apart the very fabric of our society. The time has long since passed for the Federal Government to pass a strong, comprehensive bill which will put an end to the drug trade and put drug pushers behind bars.

Drug abuse and drug trafficking in the United States is not a new problem. Thirty years ago I walked a beat as a police officer in New York City. At that time, arrests for narcotics were not uncommon. But in the past three decades, the amount of drugs coming into our country has increased thousands upon thousands of times.

Drugs now permeate every segment of our society, from the financial corridors of Wall Street to elementary schools in our neighborhoods. Cocaine, marijuana, heroin and crack are everywhere and the results are devastating. Our Nation's youth are dying, professional careers are being destroyed, and millions of law abiding citizens are living in fear of drug addicts who rob, steal and kill to satisfy their growing drug habits. We must act forcefully to put an end to this epidemic immediately.

H.R. 5484 is a dramatic step in the right direction. This bill attacks the drug menace on five fronts: eradication, interdiction, enforcement, education and treatment.

This measure toughens narcotics enforcement by increasing penalties for most drug-related offenses. In particular, the bill establishes a minimum 20 year jail sentence—up to life imprisonment—for drug trafficking and manufacturing which results in serious injury or death.

H.R. 5484 permits U.S. agents to accompany foreign police on drug raids, and increases funding levels for the Drug Enforcement Administration, the Coast Guard, and the Customs Service for drug interdiction and eradication programs.

The bill also makes it easier to detect and prosecute money laundering, which is frequently used by drug traffickers to hide their illicit profits.

And finally, H.R. 5484 creates important grant programs for local drug education and treatment programs.

Mr. Chairman, H.R. 5484 is strong medicine and will go a long way toward rooting out the drug epidemic. However, I firmly believe we should go even further in the months ahead.

Last year my good friend and colleague from Ohio, Mr. TRAFICANT, and I introduced H.R. 994, the Controlled Substances Penalties Act, which would impose much stronger penalties for those convicted of drug trafficking. H.R. 994 would make certain drug dealers spend a minimum of 15 years in jail for major drug sales and would give Federal judges the authority to impose even harsher sentences for repeat offenders, including the death penalty.

Mr. Chairman, I commend the gentleman from Texas, the distinguished majority leader, for his important leadership in this area. I look forward to working with him in making certain this bill is passed expeditiously and sent to the Senate for quick consideration.

Mr. TALLON. Mr. Chairman, it has been said that the deadliest enemies of nations are not their foreign foes but those that dwell within their own borders. Drug abuse is one of our greatest enemies, domestically and internationally. It threatens our international security as we see our personal and economic strength eroded. Domestically, it threatens the health and safety of millions of Americans, as well as our financial productivity and well-being.

The drug trade will drain our economy of some \$230 billion this year. A large part of this is due to crime—50 percent of all crime and two-thirds of all violent crime being directly related to addictive drugs. Add to that the cost of hospitalization and rehabilitation and the loss of productivity due to the drugs, and you begin to realize it costs our economy and our society much more not to take action.

We have before us today, a measure which will go far in ending this tragic, consuming situation. I am proud to be a cosponsor and supporter of the Omnibus Drug Act of 1986, our Nation's first comprehensive approach to a national policy for drug eradication. This bill, H.R. 5484, is a major step forward to our efforts to stop the tide of drug production, sale and use.

H.R. 5484 brings much-needed funding and support to our drug enforcement system. Up until now, drug enforcement has combated the growing problem of drug abuse with too little funds and support, much like trying to fight a tank with a slingshot. The bill authorizes a total of \$1.5 billion for a wide variety of drug enforcement programs.

These funds will allow us to mobilize our forces to combat the menace on five fronts: eradication of supplies; interdiction of shipments; enforcement of existing laws and strengthening laws on money laundering and designer drugs; education, where we hope the biggest payoff of all will occur; and rehabilitation for those whose lives are so devastated by this cruel addiction.

H.R. 5484 is a tough bill and will increase the penalties for illegal drug activities of all sorts. I believe it signals an important start in our Nation's all-out war against the drug abuse which is in one way or another victimizing us all. However, this bill will not be a cure-all; the drug problem can not be solved with one piece of legislation.

This war that we must embark upon is the most consuming and difficult sort of war to fight; it is a civil war. It is a war that must be fought, not only in Washington, but also in the pulpit, at the work place, in the town hall, in our schools, and in the media. Yet the war is urgent and necessary. What is at stake is the health and safety of millions of Americans, American productivity and potential, and our most important resource—American lives.

Mr. ANDREWS. Mr. Chairman, narcotics trafficking and drug abuse have reached epidemic proportions both in our Nation and abroad. The toll in ruined lives, crime and corruption is staggering. Just in the United States alone, narcotics trafficking is estimated to exceed \$110 billion. The costs to our society are estimated to exceed \$60 billion in mortality, treatment, loss of productivity and crime.

The House Select Committee on Narcotics Abuse and Control estimates that 150 tons of cocaine, 12 tons of heroin, between 30,000 and 60,000 tons of marijuana, and 200 tons of hashish will enter the United States this year. An additional 4,000 tons of marijuana will be grown and 100 tons of mind-altering drugs will be illicitly manufactured and abused domestically.

The problem is obvious, but our solution must work in two directions. First, we have to attack the supplyside of the drug trade, that is, efforts aimed at drug producers and sellers.

The second tackles the demand side and is designed to educate or scare people away from drugs. I believe the best national strategy is a stronger emphasis on "comprehensive" drug control, in which supply-reduction efforts are complemented by demand-side programs. This new approach must combine tough new law enforcement with new treatment and education programs.

On the supply side, an effective policy must include a response to the reality that many developing countries are actively involved in the production of illicit narcotics. These nations have become so involved, politically and economically, in the production of drugs that it will take a concerted change in our foreign policy to release them from their economic

dependence on illicit narcotics. Simultaneously, new policies must be implemented to strengthen our borders against the deluge of illicit drugs coming across them.

On the demand side, vigorous education and prevention efforts have to be undertaken in the work place, in our schools and in our homes. Presently, only \$3 million of the \$18 billion Department of Education budget is set aside for drug education. This is simply inadequate. It is crucial that we provide the drug education and prevention resources that will meet the demand problem head on.

Today the House is debating an omnibus drug measure which I support, that would comprehensively combat narcotics trafficking and drug abuse. Only through a sustained effort at destroying the illegal production of drugs at their sources, blocking narcotics trafficking, educating our citizens and treating those individuals who have become dependent upon drugs can we win this war on drugs. This is not a Democratic or Republican issue or a rich versus poor problem but a national emergency which we in Congress must act on now to insure a drug-free society for the children of tomorrow.

Mr. PURSELL. Mr. Chairman, I rise in support of H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986. I would like to congratulate members and staff of the 12 contributing committees as well as the minority and majority leadership for their hard work in coordinating and drafting this bipartisan effort.

This bill is a revolutionary approach to addressing the drug abuse epidemic facing this country. Not only does H.R. 5484 step up existing Federal efforts to interdict the supply of drugs entering the United States, it also channels resources toward drug education, rehabilitation, treatment, and prevention initiatives designed to stem the rising demand for drugs.

Specifically, the bill provides an additional \$180 million to the alcohol, drug abuse, and mental health administration for block grants to States for urgently needed treatment and prevention programs. According to substance abuse centers in the State of Michigan, the waiting list for drug treatment and rehabilitation is long and growing. These agencies currently do not have the resources necessary to adequately deal with the enormous demand for their services. Persons badly in need of treatment must wait weeks before the substance abuse agency can assess his or her drug problem and respond accordingly. Due to our huge Federal deficit, the Federal Government has been forced to reduce its contributions to State drug abuse programs. H.R. 5484 takes a small step toward assisting State efforts to respond to the ravaging effects of drugs.

In addition to Federal assistance for drug treatment and rehabilitation, this bill includes a number of provisions designed to expand and coordinate Federal, State, and local drug education programs. A recent survey conducted by the University of Michigan found that almost two-thirds of high school seniors surveyed had used illicit drugs, that cocaine use among seniors has increased by 17 percent, and that more than 34 percent of the students did not believe that trying cocaine was dangerous. In light of these frightening statistics, it

is apparent that a comprehensive and effective drug education effort at all levels is drastically needed. I strongly support provisions in the bill which establish grants for a variety of drug education programs to States, local intermediate educational agencies, and higher education institutions, which require the Departments of Education and Health and Human Services to create a joint national education program on drug abuse, and which require these Departments to study the nature and effectiveness of existing programs.

Mr. Chairman, I also applaud provisions which take a tough stand on reducing the supply of drugs in this country. Nothing short of a declaration of war on drug suppliers and dealers is necessary to dam the flood of drugs pouring into the United States. I strongly support provisions which increase penalties for drug pushers, establish new crimes for money laundering and designer drugs, heighten military participation in the drug surveillance and interdiction effort, use foreign aid as a lever for increasing international cooperation in the drug war, and revise the customs laws to deter drug imports. Through these tough new measures, the United States can reduce the supply of drugs available, increase the expense to drug dealers of producing and importing illicit substances, and apprehend and punish those responsible for this pervasive and serious problem.

In closing, I would just emphasize that although the efforts of State, Federal, and local governments are important contributions to combating this Nation's drug crisis, the success or failure of our fight will depend ultimately on the strength and commitment of the American family.

The first place for drug education and prevention is the family and the home. Parents must educate themselves through local drug abuse prevention programs about the symptoms and effects of drug abuse. This information must be passed on to their children in a family environment where it will have the most impact. Parents also must set an example for their children. How can we expect our children to say no to drugs if the abuse of drugs and alcohol is prevalent in the home. Mr. Chairman, I am talking about a new and strengthened commitment from the foundation of this country: The family. I strongly support efforts in this and future legislation which encourage parents and children to say no to drugs so that one day we can realize the dream of a drug-free America.

Mr. WEISS. Mr. Chairman, it is with the greatest sense of disappointment that I must oppose final passage of H.R. 5484, the omnibus drug bill, as amended.

As I indicated in my statements earlier in this debate, I strongly supported this bill in its original form. In my 30 years as a prosecutor, city councilman, and congressional representative from New York City, I have continuously fought drug abuse and illegal narcotics trafficking. I have also seen, firsthand, the devastating effect that drugs can have on a community.

So I was delighted to see the leadership of the House, from both sides of the aisle, bring this comprehensive antidrug legislation to the House floor. In particular, I was pleased that this bill includes \$350 million annually for the

next 3 fiscal years for drug education programs. One of the best ways to solve the drug problem is to stop drug use before it begins. Yet right now, for every Federal dollar spent on drug enforcement efforts, barely one penny is spent on education. Efforts to discourage cigarette smoking through education campaigns have proven enormously effective. A similar campaign waged against illicit narcotics could turn out to be the most cost-effective way to keep drugs off the streets.

I was also pleased to see the inclusion of \$180 million for drug treatment and prevention programs for the coming fiscal year. When we condemn the use of illicit drugs, we also oblige ourselves to extend a hand to those who are struggling to follow our exhortations and rid themselves of their addictions. Surely it is difficult to expect people to stop using drugs, when there are no affordable treatment programs that allow them to do so. Yet drug treatment programs are expensive, and have been drastically underfunded until now. Title IX of this bill would help correct this problem.

Curtailling the demand for drugs is one part of the solution; stopping the supply is the other part. For this effort, H.R. 5484 contains many important provisions, including additional funds for the Drug Enforcement Administration, the Coast Guard, for the Customs Service, for prison construction, and for grants to local police programs. Sadly, each of these programs have been and will continue to be subject to across-the-board cuts under Gramm-Rudman. Yet all of these areas are part of an absolutely essential effort to stop the horrible destruction of narcotics.

When I rose to speak in favor of this bill yesterday, I warned against the adoption of pernicious amendments that would undermine the many valuable provisions of this bill, and make it impossible to support final passage of an amended bill. I deeply regret to say that with the adoption of amendments to establish a death penalty, to destroy the protections of the exclusionary rule, and to erase the separation of military and civilian forces by involving the Armed Forces in drug enforcement, I will be unable to vote for this measure.

The Gekas amendment to establish a death penalty for drug-related deaths has no place in a bipartisan effort to address the drug problem. The omnibus narcotics bill already increases penalties for drug-related crimes across the board, and requires a prison term of between 20 years and life for drug distribution or production offenses that result in serious death or injury. The taking of human life by the State will do nothing to reduce the availability of drugs, and its inclusion in the current antidrug efforts has been opposed by President Reagan.

The Lungren amendment to the exclusionary rule, which would allow illegally seized evidence to be used in a trial whenever police can argue they acted in "good faith," is not only inappropriate, it is probably unconstitutional. The exclusionary rule is one of the most important protections Americans have against unreasonable search and seizure. Under the Lungren amendment, however, police will no longer have to even obtain a warrant before embarking on seizures of admissible evidence. The Lungren amendment wounds one of our coun-

try's most cherished constitutional protections against the abuse of power by the State.

Moreover, there is no evidence that it will make any contribution to stopping the drug problem. Recent federally funded studies indicate that less than 1 percent of arrests do not culminate in a conviction because of the exclusionary rule.

Finally, the Hunter amendment, which brings the Armed Forces into the business of law enforcement, would destroy the historic separation of the police and Armed Forces, with potentially calamitous results for the liberties of Americans. Our Armed Forces are not agents of the courts: they are not trained to comply with the law and to protect the constitutional rights of defendants. The Hunter amendment leads the way toward the creation of a national police force, one with little knowledge of the rights and protections of U.S. citizens. To take this grave step on the basis of less than 1 hour's debate on the House floor shows a foolish carelessness about the principles to which we owe over 200 years of liberty. Moreover, these amendments were opposed by Secretary of Defense Casper Weinberger, who undoubtedly recognizes their impropriety.

In adopting these three amendments, the House has unwisely forced Members to choose between fighting the menace of drugs, and upholding the Constitution and our basic moral principles. Even though I was a strong supporter of this bill as introduced, I cannot support a bill that casually and unnecessarily attacks constitutional rights in the process of attacking the drug problem. For these reasons, I must reluctantly oppose the final passage of this bill as amended, in the hopes that its destructive provisions will be removed either by the other body or in conference, to produce a truly effective drug bill that I would happily support.

Ms. OAKAR. Mr. Chairman, yesterday, I spoke in support of H.R. 5484, the omnibus drug bill of 1986. This very important legislation has been developed through a bipartisan effort to fight our Nation's drug problem. The omnibus legislation before us today takes a comprehensive look at the problem of drug abuse which faces our Nation, and offers solutions to deal with all facets of the problem.

All Members and every committee of this House have contributed to this bill, reflecting the national resolve to defeat the problems of drug abuse. I want to commend the superb leadership of Speaker O'NEILL, Majority Leader WRIGHT, Minority Leader MICHEL, Chairman BILL FORD, and my other colleagues who have worked on this blueprint.

Mr. Chairman, I would like to add a few remarks today about title X of this bill, which authorizes demonstration projects to test the efficacy and cost effectiveness of new drug treatment and rehabilitation programs under the Federal Employees Health Benefits Program [FEHBP]. The bill establishes a 3-year demonstration, beginning January 1, 1988, during which several models for drug and alcohol abuse treatment programs will be tried under the FEHBP.

This legislation directs the Office of Personnel Management [OPM] to work with the

FEHBP plans, Federal agencies, and employee organizations to develop innovative rehabilitation programs to be offered in several geographic areas across the country. Under the bill, OPM and the other groups are instructed to include outpatient and inpatient services, as well as various other services, such as child care, to make certain that individuals who need help will have access to it. OPM and the other groups will select which agency or agencies will participate in the demonstration at each site. The demonstration will not interfere with existing employee assistance programs [EAPs]; instead, the legislation directs that the demonstration will coordinate with these EAPs to take advantage of their services and expertise. A separate appropriation is authorized for the demonstration so that insurance costs will not rise for individuals or for the FEHBP Program.

Under H.R. 5484, the evaluators of the demonstration projects are instructed to measure not only the cost and effectiveness of the new health coverage, but the effects of such care on worker productivity. Undoubtedly, we will realize gains in both the well-being of individuals and their job performance by making help available when it is needed. Any responsible employer knows that both the employer and the employee gain when a health problem like substance abuse is acknowledged and dealt with effectively. It is far more humane, and far less costly, to offer assistance than to ignore health problems or respond to them with punishment.

This demonstration is very important. Ever since 1982, when the administration forced extensive cuts in the FEHBP, Federal employees, annuitants, and their families have not had adequate health insurance coverage for drug abuse and alcoholism rehabilitation. In 1982, FEHBP benefits were cut by 13 percent, with the brunt of those reductions falling in the areas of mental health care and drug abuse and alcoholism rehabilitation. Today, when the entire Nation is recognizing the serious implications of substance abuse for our citizens and our work force, we must reexamine our health insurance programs to fill in the gaps where needs are not being met.

Today, we are taking an important step toward restoring the FEHBP to a more comprehensive health care program. We are acting to deal with the problems of substance abuse in a reasonable, responsible, humane fashion. I would like to thank my colleagues again for their participation in this effort, and urge swift approval of this legislation.

Mr. SENSENBRENNER. Mr. Chairman, as an original cosponsor, I want to underscore my support for H.R. 5484, the Omnibus Drug Act of 1986, legislation whose time has finally come. Today, the United States makes up only about 5 percent of the world's population, yet consumes nearly 60 percent of the world's illegal drugs. The real tragedy is that our Nation's future is the victim, because the users of illegal drugs are predominantly among young people.

However, even before this legislation was introduced, we were starting to see a fundamental change in the attitude of the American

people toward the problem of drugs. Across the country, individual citizens, private organizations, community groups, and public agencies are all working to reestablish a climate in which drug abuse is not just illegal, but socially and ethically unacceptable.

President Reagan has made fighting drug abuse a major goal of his administration, and recently announced a national strategy consisting of six major goals to eradicate drug abuse. Mrs. Reagan has made it her major goal. With her help, 10,000 "Just Say No" clubs have been established across the country. Five years ago, there were only 900 such groups.

Among other provisions, the omnibus measure incorporates provisions of seven bills reported by the Judiciary Committee to enhance drug enforcement, stiffen penalties for drug-related crimes, provides for treatment of drug- and alcohol-dependent offenders, and fund additional prison construction.

To make this bill more effective, we need the death penalty for people convicted of drug trafficking, we need to spend more money on border patrols and customs services, and we should use our foreign aid to tell foreign countries where drugs are produced that if they want foreign aid, they are going to have to get rid of the drug sources and not be involved in having drugs as a money-making export.

There is no single solution to the drug crisis. The 20 Federal agencies and hundreds of State and local offices which fight drugs must battle on many fronts: the source, interdiction of supply, prevention, treatment and rehabilitation. The ultimate success of that effort, however, depends upon citizen volunteers who, in one community after another, are taking the lead in fighting drug abuse in the workplace, in our schools, and on our streets.

Mr. LANTOS. Mr. Chairman, the drug epidemic we are facing is affecting all Americans—both those who use illegal drugs as well as non-drug users who, though innocent of wrong doing, are affected by this cancer on our society. This rampant drug use is increasing the danger on our highways, increasing crime in our cities, and destroying families and homes throughout our Nation. More than half of all crimes are now drug-related; and as illicit drug use grows, more crimes are committed. It is an increasing spiral of causes and effects, taking in an ever-widening circle of tragedy.

The price of human lives of this epidemic is incalculable. But, the financial price we are paying as a society can be calculated—and it is staggering. Americans spend \$110 billion a year on illicit drugs. The recent appearance of less expensive cocaine, "crack" has taken the drug scene by storm. Alternative forms of use, such as free-basing, have also made this substance more convenient to use. It is now believed, based on recent studies, that one of every six teenagers is trying cocaine before graduating from high school, and one of every three college students is now using cocaine before graduating from college. Current estimates suggest that there are 4 to 5 million regular adult cocaine users in our Nation.

There has been an enormous quantitative jump—an explosive increase—in the amount of cocaine smuggled into this country from South America. While we were shocked by 1984 figures that Federal Drug Enforcement Administration agents were seizing an average of 48 pounds of cocaine per month, current figures have rocketed. The figure jumped to 275 pounds in 1985 and it is even higher for 1986. Earlier this year in Los Angeles, three unrelated seizures in less than 1 week resulted in the seizure of 790 pounds of cocaine. That is in only one city, in only 1 week, in our Nation alone.

The time is long overdue for us to declare war on illicit drugs, to take comprehensive action on all fronts to deal with illicit drugs.

Mr. Chairman, the legislation which we are considering in the House today—H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986—is that long overdue declaration of war, it is the comprehensive program that is required if we are to deal with the drug crisis.

This legislation provides new programs and new legislation in a large number of important areas. Any assault on the drug problem must deal with many areas. This legislation provides important new tools in all areas of drug interdiction, enforcement, education, and rehabilitation, as well as providing increased penalties for violation of our drug laws.

I am delighted that provisions of my bill, H.R. 5247—the Youth Drug Protection Act have been included in this legislation. The Omnibus Drug Act strengthens penalties and clarifies legislation making it a Federal crime to use young people to distribute drugs and to manufacture or distribute drugs in or near schools. It also increases the penalties for cocaine dealers for first and subsequent offenses.

This legislation is our declaration of war against the use of illicit drugs in the United States and against international drug dealers who provide illegal narcotics. As Gen. Douglas MacArthur said, "In this war there is no substitute for victory." In this war against drugs, the stakes are high—the lives and futures of our children and our grandchildren. It is a war we can win, it is a war we must win. The legislation the House is considering today is an essential weapon in that war. I urge my colleagues to vote for its adoption.

□ 2155

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. CARR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support

for drug abuse treatment and rehabilitation efforts, and for other purposes, pursuant to House Resolution 541, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The amendments printed in section 2 of House Resolution 541, agreed to by the House on September 10, 1986, are considered as having been adopted.

Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. LEWIS of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 392, nays 16, not voting 23, as follows:

(Roll No. 378)

YEAS—392

Akaka	Campbell	Edgar
Alexander	Carper	Edwards (OK)
Anderson	Carr	Emerson
Andrews	Chandler	English
Annuzio	Chapman	Erdreich
Anthony	Chappell	Evans (IA)
Applegate	Cheney	Evans (IL)
Archer	Clinger	Fascell
Armey	Coats	Fawell
Aspin	Cobey	Fazio
Atkins	Coble	Feighan
AuCoin	Coelho	Fiedler
Badham	Coleman (MO)	Fields
Barnard	Coleman (TX)	Fish
Barnes	Collins	Flippo
Bartlett	Combest	Florio
Barton	Conte	Foglietta
Bateman	Cooper	Foley
Bates	Coughlin	Ford (MI)
Bedell	Courter	Ford (TN)
Beilenson	Coyne	Fowler
Bennett	Craig	Franklin
Bentley	Daniel	Frenzel
Bereuter	Dannemeyer	Frost
Berman	Darden	Fuqua
Bevill	Daschle	Gallo
Biaggi	Daub	Garcia
Bilirakis	Davis	Gaydos
Bliley	de la Garza	Gejdenson
Boehlert	DeLay	Gekas
Boggs	Derrick	Gibbons
Boland	DeWine	Gilman
Boner (TN)	Dickinson	Gingrich
Bonior (MI)	Dicks	Glickman
Bonker	Dingell	Goodling
Borski	DioGuardi	Gordon
Bosco	Dixon	Gradison
Boulter	Donnelly	Gray (IL)
Boxer	Dornan (CA)	Gray (PA)
Brooks	Dowdy	Green
Broomfield	Downey	Gregg
Brown (CA)	Dreier	Guarini
Brown (CO)	Duncan	Gunderson
Bruce	Durbin	Hall (OH)
Bryant	Dwyer	Hall, Ralph
Burton (IN)	Dymally	Hamilton
Bustamante	Dyson	Hammerschmidt
Byron	Early	Hansen
Callahan	Eckart (OH)	Hatcher

Hawkins	McHugh	Sharp
Hayes	McKernan	Shaw
Hefner	McKinney	Shelby
Hendon	McMillan	Shumway
Henry	Meyers	Shuster
Hertel	Mica	Sikorski
Hiller	Michel	Siljander
Hillis	Mikulski	Sisisky
Holt	Miller (CA)	Skeen
Hopkins	Miller (OH)	Skelton
Horton	Miller (WA)	Slattery
Howard	Mineta	Slaughter
Hoyer	Moakley	Smith (FL)
Hubbard	Molinari	Smith (NE)
Hughes	Mollohan	Smith (NJ)
Hunter	Monson	Smith, Denny
Hutto	Montgomery	(OR)
Hyde	Moody	Smith, Robert
Ireland	Moore	(NH)
Jacobs	Moorhead	Smith, Robert
Jeffords	Morrison (CT)	(OR)
Jenkins	Morrison (WA)	Snowe
Johnson	Mrazek	Solarz
Jones (NC)	Murphy	Solomon
Jones (OK)	Murtha	Spence
Jones (TN)	Myers	Spratt
Kanjorski	Natcher	St Germain
Kaptur	Neal	Staggers
Kasich	Nelson	Stallings
Kastenmeier	Nichols	Stangeland
Kemp	Nielson	Stark
Kennelly	Nowak	Stenholm
Kildee	Oakar	Strang
Kindness	Oberstar	Studds
Klecza	Olin	Stump
Kolbe	Ortiz	Sundquist
Kolter	Owens	Sweeney
Kostmayer	Oxley	Swift
Kramer	Packard	Swindall
LaFalce	Panetta	Tallon
Lagomarsino	Parris	Tauke
Lantos	Pashayan	Tauzin
Latta	Pease	Taylor
Leach (IA)	Penny	Thomas (CA)
Leath (TX)	Pepper	Thomas (GA)
Lehman (CA)	Perkins	Torres
Lehman (FL)	Petri	Torricelli
Leland	Pickle	Towns
Lent	Porter	Traffant
Levin (MI)	Price	Traxler
Levine (CA)	Pursell	Udall
Lewis (CA)	Quillen	Valentine
Lewis (FL)	Rahall	Vander Jagt
Lightfoot	Rangel	Vento
Lipinski	Ray	Visclosky
Livingston	Regula	Volkmer
Lloyd	Reid	Vucanovich
Loeffler	Richardson	Waldon
Long	Ridge	Walgren
Lott	Rinaldo	Walker
Lowery (CA)	Ritter	Watkins
Lujan	Roberts	Waxman
Luken	Robinson	Weber
Lundine	Rodino	Wheat
Lungren	Roe	Whitehurst
Mack	Roemer	Whitley
MacKay	Rogers	Whittaker
Madigan	Rose	Williams
Manton	Rostenkowski	Wilson
Marlenee	Roth	Wirth
Martin (IL)	Roukema	Wise
Martin (NY)	Rowland (CT)	Wolf
Martinez	Rowland (GA)	Wolpe
Matsui	Russo	Wortley
Mavroules	Saxton	Wright
Mazzoli	Schaefer	Wyden
McCain	Scheuer	Wylie
McCandless	Schneider	Yates
McCloskey	Schuetz	Yatron
McCollum	Schulze	Young (FL)
McCurdy	Schumer	Young (MO)
McEwen	Seiberling	Zschau
McGrath	Sensenbrenner	

NAYS—16

Clay	Frank	Savage
Conyers	Gonzalez	Stokes
Crane	Lowry (WA)	Weaver
Crockett	Mitchell	Weiss
Dellums	Roybal	
Edwards (CA)	Sabo	

NOT VOTING—23

Ackerman	Breaux	Carney
Boucher	Burton (CA)	Chappie

Dorgan (ND)
Eckert (NY)
Gephardt
Grotberg
Hartnett
Huckaby

Markey
McDade
Obey
Rudd
Schroeder
Smith (IA)

Snyder
Stratton
Synar
Whitten
Young (AK)

□ 2210

Mr. LOWRY of Washington changed his vote from "yea" to "nay." So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous matter, on H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986.

The SPEAKER. Is there objection to the request of the gentleman from New York,

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTION TO CONCUR IN SENATE AMENDMENT TO H.R. 4868, ANTI-APARTHEID ACT OF 1986

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-814) on the resolution (H. Res. 548) providing for a motion to take the bill (H.R. 4868) to prohibit loans to, other investment in, and certain other activities with respect to, South Africa, and for other purposes, from the Speaker's table and to agree to the Senate amendment, which was referred to the House Calendar and ordered to be printed.

REQUEST FOR PERMISSION TO HAVE UNTIL MIDNIGHT TUESDAY, SEPTEMBER 16, 1986, TO FILE CONFERENCE REPORT ON H.R. 3838, TAX REFORM ACT OF 1985

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Tuesday, September 16, 1986, to file the conference report on the bill, H.R. 3838, Tax Reform Act of 1985.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. FRENZEL. Reserving the right to object, Mr. Speaker, I shall not object. I think that the request is self-explanatory.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, this gives the conferees up until Tuesday

at midnight to file. Is there any chance that it would be filed before Tuesday at midnight? I think that most of the Members would prefer to have the full 3 legislative days and not have weekend time in order to examine the report of the committee before we vote.

I just wanted to be assured that we probably would not get it, or we should not get it, before Tuesday at midnight, so that we would have the full 3-day period.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I am certainly optimistic. I had hoped that we could get the report filed before then. It is unlikely, however, because it is such a large document, but I certainly would like to see the membership have the necessary legislative days to review the report.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield further to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, all that I am trying to assure is that we do not have a report filed on a Saturday and then end up with Saturday and Sunday being a part of the 3-day period that would be then a shortened time for the Members coming back to town to consider the bill.

I am just trying to assure that the 3 days will run concurrent with time that the Members would actually be in town.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield further to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no intentions of trying to see that Sunday or Monday would be counted as a legislative day. I think that getting it filed on Monday night is going to be a success story in itself.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Washington [Mr. LOWRY].

Mr. LOWRY of Washington. I thank the gentleman for yielding.

Mr. Speaker, I was going to reserve the right after the gentleman. I do not think that I have any real problem perhaps with this request for filing the report, but I have a strong problem with the unanimous-consent request made here Tuesday that waived the points of order on being out of the scope of the conference on items such as the sales tax deduction.

□ 2220

That is not a small item. A member of the Committee on Ways and Means came to the floor and received unanimous consent to waive points of order thereby not going to the Committee on Rules on items such as being out of

scope such as the House position on the sales tax was 100-percent deduction and the other body's position was 60-percent deduction and just come and waive that, to set it up so that we will have 2 hours of debate on the conference report coming here.

I think there is—is it 3 hours? The gentleman says 3 hours of debate on what is billed as the most major reform of the tax system since 1950. But to come and get a unanimous consent to waive points of order on things like the deduction of the sales tax as a for instance, and there are other for instances, so that we could not go to the Committee on Rules and talk about that, I frankly think on a bill of this magnitude is very bad policy.

When the gentleman is done with his reservation, I am going to bring mine up and then I am going to think about listening to why that makes sense if this is not a railroad.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I was on the floor when the unanimous-consent request was made. I, and other Members who were here present, felt that the bill of this size and scope, even though I objected to the features that went beyond the scope of the conference, to have restricted it to six items, however big they were, and I agree with the gentleman that the one he is talking about is a serious one, and I assure you I am no fan of the bill. I intend to vote against it, but I thought the committee ought to have their chance to bring their bill up as a unit.

Going to one more committee could only delay, cause decisions to be deferred in the economy that ought not to be deferred and, therefore, I did not object.

Mr. LOWRY of Washington. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Washington.

Mr. LOWRY of Washington. Mr. Speaker, the economy had a little comment today. I do not know if it had any results on this or anything else. This is a serious question before us.

I would like to know, in my State of Washington, which is constitutionally prohibited against an income tax, in which 60 percent of the revenue to the State of Washington is from the sales tax, it pays for education; it pays for services, why, when we had a position coming out of this House that was 100 percent deductible, than now, and the other body was 60 percent deductible, that now we find it set down, come up with this report after we recessed and came back now and found out the rules of order are waived so that we could not go to the Committee on Rules?

I wanted to talk to the Committee on Rules about why should education in my State subsidize education in the

State of Oregon? Why should the cost of paying for services in the State of Washington, in which an income tax is prohibited, and we had two efforts in the last 10 years to change that and got beaten over 2-to-1 both times, should, by a unanimous consent brought by a member of the Committee on Ways and Means on this floor put out of order even going to the Committee on Rules and getting a chance to talk about this?

I would like to know why that makes sense.

Mr. FRENZEL. Mr. Speaker, further reserving my right to object, I am not going to defend the substance of the bill because I am not supporting it. I only was trying to defend the procedures.

I think if the gentleman wants to proceed, he probably ought to do it under his own reservation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. LOWRY of Washington. Mr. Speaker, reserving the right to object, I would like to ask the chairman of the Committee on Ways and Means, who has worked very hard on this bill, why an item of that importance should be dropped as not in order of being brought up and going to the Committee on Rules to talk about?

It was 100-percent deduction coming out of this House with 60 percent from the other body.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. LOWRY of Washington. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, a conference to negotiate both the House and Senate positions is exactly what it is. It is a conference.

In the negotiations, the other body was very adamant about their position. In the negotiations, this is one of those areas where the House yielded.

As far as the gentleman's opportunity to debate, I am sure that the gentleman is going to have an opportunity on the floor of the House of Representatives to raise his points. But the procedures of the House were accepted, the unanimous-consent request was made and no one objected.

Mr. LOWRY of Washington. Mr. Chairman, what happened in the procedures of the House, the unanimous consent request went around the Committee on Rules so that this can be talked to. That is true.

A member of the Committee on Ways and Means stood up and got unanimous consent to waive the points of order. That is true.

It was not the other body's position that prevailed. The other body's position was for a 60-percent deduction. The House position was 100-percent deduction, and we got zero.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield further, I am informed that before the unanimous consent request was made, it was cleared by members of the Committee on Ways and Means that made the unanimous consent request and by the chairman of the Committee on Rules as well.

So the procedures of the House were conformed with.

Mr. LOWRY of Washington. Mr. Speaker, would the gentleman mind telling me why education in my State should subsidize education in the gentleman's State of Illinois, where, in my State, the only thing that pays 60 percent of the revenues for education in my State is the sales tax? We cannot get out of that. We are locked by constitutional amendment. Why should we now subsidize education in the State of Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield, I am not going to debate the merits of the bill this evening. Those questions can be answered when the debate is taking place on the floor of the House some time next week or the following week.

Mr. LOWRY of Washington. Mr. Speaker, since this is one of the first opportunities I have had since this procedure to debate that, I debated.

Mr. Speaker, I object.

The SPEAKER. Objection is heard.

HOUR OF MEETING ON TOMORROW

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns tonight, it adjourn to meet at 9 a.m. tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN EN- GROSSMENT OF H.R. 5484, OM- NIBUS DRUG ENFORCEMENT, EDUCATION, AND CONTROL ACT OF 1986

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5484, the enrolling clerk be authorized to make such technical and conforming amendments to the table of contents as may be necessary to reflect amendments adopted to the bill and to make corrections in capitalization and punctuation.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

□ 2230

THE RAILROAD UNEMPLOY- MENT INSURANCE INSOLVEN- CY AND BENEFIT INCREASE ACT OF 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. COATS] is recognized for 5 minutes.

Mr. COATS. Mr. Speaker, today, I am joining my colleague Chairman FLORIO in introducing the Railroad Unemployment Insurance Insolvency and Benefit Act of 1986. This legislation, in the form of a subcommittee print, was favorably approved in June 1986, by the Subcommittee on Commerce, Transportation, and Tourism for consideration by the Committee on Energy and Commerce. I believe that this legislation is a step in the right direction toward addressing the financial problems that face the Railroad Unemployment Insurance [RUI] system.

The future of the RUI system is crucial to the approximately 30,000 unemployed rail workers who are currently receiving benefits. Further, since the RUI system has often been able to pay benefits only by borrowing money from the Railroad Retirement Pension Fund, the financial health of the RUI system has a direct impact on the financial security of railroad retirees.

The financial problems facing the RUI system are nothing new. The system has had to borrow from the Railroad Retirement account in 19 of the last 24 years. I have been working throughout this Congress to ensure that those problems are addressed. Congress cannot afford to delay addressing these problems any longer. The indebtedness of the RUI system to the Railroad Retirement Pension Fund now exceeds \$800 million. Additionally, despite this huge debt, RUI daily benefits are lower than those paid by many States. The maximum daily benefit under RUI is \$25 per day, compared to \$40 per day, which is the weighted average of maximum daily benefit paid to other unemployed workers in the six States where there are 20,000 rail workers.

The legislation we are introducing today is a step toward establishing a financially viable railroad unemployment insurance system that is fair to railroad workers and pensioners, the railroad carriers and the American taxpayer. Although the legislation retains the independent nature of the RUI system it makes important changes in that system.

First, it requires rail carriers to pay unemployment taxes based on their unemployment experience, instead of the flat tax they currently pay. This will encourage rail carriers to attempt to keep their unemployment rates low.

Second, this bill provides a surcharge which will be triggered when the funds in the RUI account fall below certain designated levels. Presently, when the funds in the RUI account are not sufficient to pay unemployment benefits the RUI system borrows funds from the Railroad Retirement System. The RUI system's record of repaying those loans is dismal. Providing a mechanism to raise additional funds will contribute to the financial solvency of both the RUI system and the Railroad Retirement System.

Finally, the bill increases the maximum daily benefit afforded unemployed rail workers from its current, unrealistically low level of \$25 to \$27. I do not, however, believe that this increase is sufficient. Therefore, at the Subcommittee markup I offered an amendment to increase the daily benefit level to \$30. Although that amendment was defeated at subcommittee, both rail labor and management have recently endorsed the amendment. I am heartened that management and labor have finally agreed that reform is needed in this area. RUI benefits are currently too low, and management's recognition of this is a real step forward. I plan to offer my amendment again when the full committee considers this legislation. I am confident that with the support of management and labor my amendment will pass.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. PEPPER] is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, I was unavoidably absent for rollcall 364, on Friday afternoon, August 15, 1986. This vote was a motion to adjourn until Monday, September 8, 1986. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. Speaker, this morning I was attending the funeral service of the husband of my executive assistant, who was a close, personal friend, and therefore was unable to be present for rollcall vote No. 367. Had I been present, I would have voted "yes" on the Hunter and Robinson amendment to the Bennett amendment to H.R. 5484, The Omnibus Drug Act of 1986.

NATIONAL CHILDREN'S TELEVISION AWARENESS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. WIRTH] is recognized for 5 minutes.

Mr. WIRTH. I rise in support of House Joint Resolution 710, legislation which designates the week beginning October 12 as "National Children's Television Awareness Week."

The purpose of "National Children's Television Awareness Week" is to highlight the positive uses of television and to help parents and children maximize television's great potential as an educational tool. During the commemorative week, families, broadcasters, schools, libraries, and religious institutions will all be focusing national attention on the positive role that television can play in child development through various activities on the National, State, and local levels.

Television teaches a wide variety of skills and behavior. Programs such as "Sesame Street," for example, have been instrumental in increasing the reading and mathematical

proficiency of children. Research indicates that TV can teach values ranging from kindness toward others to cooperation with friends and neighbors. It can also motivate children to learn about the world around them.

Thus, television can play a pivotal role in education if its potential is fully realized and used properly by children, parents and other institutions. Unfortunately, all too often we take television for granted and do little to maximize the tremendous educational, cultural, and social potential that television holds for children.

"National Children's Television Awareness Week" will encourage such positive uses of television through a variety of activities scheduled to focus national attention on how best to utilize the medium. Here are just a few examples of the various activities which will be taking place to promote the special commemorative week:

Seven States have already passed proclamations inaugurating complementary children's television awareness campaigns;

Several cable channels will be scheduling special showings of past quality children's programming and promotional PSAs to highlight the week;

Action for Children's Television is kicking off a yearlong campaign to heighten family awareness of television viewing with a series of publications and the release of a special "TV Smart" book;

Religious groups and the regional PTA groups will be holding children/parent workshops to promote the educational uses of TV; and

The American Academy of Pediatrics will be distributing special leaflets to pediatricians and patients highlighting the positive uses of television.

This resolution is strongly supported by the National Education Association, Action for Children's Television, Consumer Federation of America, International Reading Association, National PTA, American Academy of Child Psychiatry and a host of other organizations. I urge my colleagues to join me in joining this resolution.

THE PRESIDENT'S VOLUNTARY RESTRAINT AGREEMENT ON STEEL IS NOT WORKING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 30 minutes.

Mrs. BENTLEY. Mr. Speaker, the recently reported trade figures on steel imports for the month of July of 27.3 percent import penetration of the American market is a shocker and it makes a mockery of the President's voluntary restraint agreement on steel which was to keep import penetration at 18.5 percent of domestic market.

Two years into the agreement, total year-to-date imports are at 23.3 percent, so we are still 5 points above the agreed amount. And, the Trade Representative, Mr. Yeutter, in this poor atmosphere, has just ceded another 200,000 tons of semifinished steel to the European Community.

In negotiations, Dr. Yeutter promised to come up with a "nifty" citrus agreement in exchange for the 200,000 tons of steel. However, it was all promises. He came back from the EEC without the citrus agreement; but, he announced he had given away the steel, anyway.

This raises several questions in my mind. How can anyone seriously equate the dollar value of steel with the dollar value of grapefruit? How can anyone seriously equate the strategic value of having a domestic steel industry in place and having a domestic citrus industry in place? I have heard that apples and oranges can't be mixed.

Well, I say that steel and grapefruit are not interchangeable either in monetary value or in intrinsic value to the American economy, or to the defense. No one ever won a war hurling grapefruit at an enemy. The state of our industrial base raises the question of whether we can even produce old fashioned grape shot inside this country.

This Government and the Trade Representatives better get national priorities in order.

The capacity of our steel industry is in a drastic decline. It seemingly has little to do with the competitiveness of the industry, it has to do with the attitude of our Government toward the necessity of having a steel industry, viable and profitable, inside this country.

When the EEC demanded—as their right—the entry of a million tons of European steel into our markets, they were awarded 600,000 tons with two extra fillips the 200,000 more tons of semifinished product—and no grapefruit sales in return—and an escalator clause which allows even more sales into our markets over the next few years.

There are few United States steel exports into the EC and other nations such as Japan are severely limited on what they can export to Europe. Inside the European market, there are no restraints from country to country. However, European steel is more expensive for internal use, than for export, because the Value Added Tax, common to all EC countries is collected internally, but backed off at the time of export.

This industry is also heavily subsidized by the European Community by several billions of dollars over the last few years of heavy export to the United States. Not only should these countries be delighted with our marshmallow defense of our own industry, they should be absolutely ecstatic over our projected new tax bill which will totally discourage any new investments in our smoke stack industries.

European steel makers, therefore, effectively, cut their prices for export by backing off or rebating the VRA

tax. It is purely and simply a legalistic maneuver to get around a free trade no-no—products sold more cheaply internally than in export are considered outside of the pale in free trade parlance.

Mr. Speaker, when we criticize our own steel industry, saying that they are not competitive, somehow we always forget to point out that our steel industry is private enterprise; it is free enterprise; and we are putting each of our steel companies up against a government, because the Government of Korea, the Government of Japan, the governments in the European Countries all subsidize their steel industries. We forget that.

Pogo convinces me. "We have seen the enemy and it is us!"

Ambassador Yeutter was even quoted in the newspapers, while in negotiations on EC steel, that it was questionable as to whether we needed smokestack industries. How's that for flashing your hold card while in a high stakes game?

Over the last 6 years, time and time again our steel companies had cases prepared against many foreign companies and countries on illegal trade practices inside the American market—on each and every occasion the U.S. companies were persuaded by the White House that charges should not be filed. That the White House would take care of them with the voluntary restraint agreement; "not to worry."

Everybody makes mistakes, Mr. Speaker. For example, for the first 7 months of the second year of the President's voluntary restraint agreements with import penetration at 23.3 percent of market. We can surely say that we have indeed made a mistake in listening, and that the industry has made a mistake in not going ahead and filing charges for damage done to them by imports.

Other nations have watched the behavior of the EC and are beginning to push up shipments. Canada is on a roll taking 3.2 percent of our market, refusing to cut back on the basis that we have no national boundaries between us, that we share a common market—inside the United States.

That's an interesting viewpoint since there are tariffs all over the place on American products flowing into Canada—and some of those tariffs are very steep.

American truck drivers would also be interested to know that we are boundary-less with Canada. The Eastern Provinces of Canada demand that every load going into Canada be off-loaded at the border and loaded onto Canadian rigs. American drivers who have gone into Canada—with special dispensation—cite instances of harassment by Canadian Mounted Police.

The boundary to the north seems to exist only against American products and American businesses. For Canadian products and transport coming south it obviously disappears. What a magical boundary we've allowed to grow up along our Northern States—a one-way turnstile, always operating against us.

Sweden has been refusing to negotiate with us on steel. Again a nationally subsidized steel industry which competes unfairly with ours and gets away with it.

Both Korea and Taiwan observing the success of the western nations battering at our steel markets are beginning to ship increasing amounts—and why not? Once they have pushed up the percentages—when we begin to negotiate seriously with them—sometimes in the next few years—the level of negotiations we start at will be theirs.

It happened with the EC negotiations and Uncle Sam doesn't seem to know how to say, "First let's look at what level is good for our country—our industry!"

If I sound annoyed, exercised by what is happening in the steel industry—then I make my point well. However, what is happening in steel is only a part of a greater, more frightening picture.

□ 2240

Another set of figures came out over the Labor Day weekend. These projected a \$170 billion trade deficit for 1986. Steel imports are only a part of that picture, automotive parts and automobiles, machine tools and ball bearings, TV and radios, shoes and clothing—many, many other products contribute to this astronomical sum.

Let us take some of those one by one, some of the stories that we have been hearing about that. Let us take the automotive parts, the automobiles which consumed at one time, when they were made in this country, a substantial portion of the steel that was manufactured here. When we are talking about the voluntary restraint agreement on steel coming in, we are not talking about manufactured goods made out of steel which actually raises the amount of steel coming into this country as 50 percent of the market. That goes to the automobiles and it goes to the automotive parts and the machine tools and the ball bearings. But on the automotive parts we are hearing a lot of after-market repair parts. Now, what are after-market repair parts? Why are they called that?

Our research shows that they are inferior products being sent in here and that the insurance companies when they are making the estimates for repairs on American cars or other cars, I guess, are using these cheap figures, the lowest cost figures, the after-

market figures, and they are not even letting the customer know in many instances that he or she is being given an inferior part, and inferior repairs.

Something needs to be done about that.

Ball bearings, you might say we are almost at a crisis stage on that. They are very important to all production. Here we are with more than 80 percent coming in from overseas today. Machine tools, another industry that is on the decline in this country, another very vital industry to our national defense. When you look at the empty steel plants, the buildings where there were once pipe mills, rod mills, and you see how empty they are, the equipment has even been taken out of them and sold somewhere overseas, you think how are we ever going to rev up if we get into an emergency situation again because we do not have the machine tool industry to prepare us for it?

I am worried, yes. I worry a great deal about this. We have a lot of questions that must be answered.

I remember the days not too long ago when the trade deficit was around \$100 billion. We were told the reason was the vast amount of oil imported into this country. At that time oil was nearly \$35 to \$40 a barrel. Here we are with oil down to \$8, \$10, \$12 a barrel and the balance of trade deficit is going up and up and up. And nobody has ever wanted to admit that it is the increasing amounts of manufactured goods coming from overseas that is creating this deficit as well as creating a deficit in jobs in this country.

For the future economic independence of the country, this \$170 billion should raise grave concern. Those dollars will eventually return to be spent in this country and from past records, it is obvious that they will not be spent to purchase our goods, but to purchase our assets. It is capital we are not shipping offshore which will return to us as economic bullets.

Our economy has degenerated into a Ponzi scheme—money flowing out on imports, foreign money flowing back in to buy Treasury bills, and U.S. assets and fewer and fewer American products being sold. We are caught in a rip. As we import more foreign goods, more and more American businesses are destroyed creating the urge to buy yet more and more foreign products.

To add insult to injury, which is what I think it is, in our tax bill which we are going to be considering on this floor next week, there is a \$100 million tax break for Toyota of Japan to come in and build a new assembly plant in the State of Kentucky. Do you know what? All of the components that will be assembled in that plant will be manufactured overseas in Japan and will be brought over here. That steel

does not count in the voluntary restraint agreement. But that is going to be brought in here and assembled. And do you know something more? That plant is not even going to be built by American workers. Somehow they are going to be bring in 500 Japanese to construct the plant. Our reports are that they are even going to bring in Japanese to work in the plant.

Now, that is really giving it to the Americans good.

I say, Mr. Speaker, that we are inviting many of the problems that are being heaped upon us in the loss of our manufacturing base, our industrial base, and I think it is time that we in this House show the necessary leadership to stop this, to stop this bleeding of a very, very very necessary industrial base.

Mr. Speaker, at this time I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. I thank the gentlewoman for yielding.

Mr. Speaker, I was very hesitant to interrupt my colleague on the Steel Caucus because her presentation was so logical, so informative and so expertly done. I think the entire House, the American people, the citizens of this country owe the gentlewoman a deep sincere debt of gratitude.

Mrs. BENTLEY. I thank the gentleman for his comments.

Mr. GAYDOS. The gentlewoman has taken the time not only for the special order but to get down and in detail present in such a practical manner the argument, the explanation of what has been going on for the last 15 to 18 years in this country.

I want to particularly commend the gentlewoman for being so practical in making the logical comparison, though it may seem illogical, between grapefruit and the agriculture industry and steel.

I think that makes it very easy to understand for those of our citizenry who have not had the privilege or maybe some even lack the ability to be able to analyze some of these complicated international situations in trade and all the exponents of trade and the machinations of Mr. Yeutter, who has appeared so many times before our committee and has told us so many conflicting things. I think the explanation of the gentlewoman and her very clear explanation in particular instances goes a long way to making this very delicate, yet most important subject matter understandable for our citizens.

That is why I hesitated to interrupt because I thought it was so good, I was impressed sitting here listening to it.

I think everything the gentlewoman has said is proven by facts. The presentation was very clear. I know it is going to be very effective. I would like to ask my colleague who serves with me on the steel caucus executive committee if she does not agree with me

that both of us, if we have not already lost it, should lose patience with Ambassador Yeutter. He has told us many, many things before the caucus committee where he has understandably, and so kindly presented himself. He does not have to come before us. But when he did bring the message on numerous occasions it appears that everything he said could be discounted because everything he said could almost be put into one bag that could be marked "non-attainable." Every time he comes back to the caucus, he has to explain why what he said before was going to happen did not happen. I was particularly impressed by my colleague when she emphasized that aspect of the Yeutter diplomacy, the international trade diplomacy where he has repeatedly come back with explanations saying, "Well, I gave it away because of this or that."

□ 2255

So I would like to have a comment on record, and I think our citizens listening to this very, very clear explanation would benefit from further explanation on why a trade ambassador has to come back to us repeatedly and tell the Nation and tell us that he cannot do this and he has not done this, was unable to do this, and trade away the very life blood of this country as far as trade is concerned.

Mrs. BENTLEY. I appreciate the kind remarks of my colleague from Pennsylvania, and I am delighted that the gentleman has entered into this colloquy with me.

I get very disturbed by the conflicting reports that we have been getting from our special Trade Representative's office. In fact, I believe it was as recent as July that we were assured that the figures were going to decrease and that finally everything was going to get in line, and that the ceiling that the President had set 2 years ago, nearly 2 years ago, was finally going to be achieved. And here we are, the next report we get, it has skyrocketed instead.

Stepping away from the steel industry momentarily, we were in negotiations with the Far Eastern countries on textiles very recently. We got one or two or three which were supposed to be good. I have not studied them sufficiently or heard from the textile industry whether they were good or bad. I have heard some, and they were not impressed with them.

But I felt that it was particularly significant that the Japanese stock negotiations, the minute that we failed to override the President's veto on that textile bill.

My point of bringing that out is that the only way you can deal with these is with strength. And if we do not hold clubs over their heads, they are sure going to run away with us.

We cannot go to the European market with hat in hand and beg from them. I think we really have to say it is either going to be this way or forget it. I do not think we have to bow and kowtow to these countries. That is one of the biggest mistakes we made, and our State Department is famous for doing that. They do not consider the United States' position; they consider only what the reaction is going to be abroad. I think it is time we start worrying about what is happening here.

What I am concerned about in saying it is either going to be a quid for a quo or a quo for a quid is that our manufacturing base is eroded so severely that we may not have the merchandise, the materials, to export anymore when we are demanding that they open their doors the same way we open ours. That is where we made the mistake. Our doors are wide open: free trade roll in; free trade takes our jobs. But their doors have remained closed, and I say all around the world practically. It is a rare door that is open to us or to many other countries. But we have given it away.

Only, and only with demanding that our goods have equal treatment, equal openings, can we ever make any gains, I am afraid.

Mr. GAYDOS. I believe my colleague will agree with me because she has been exposed to the same information during our colloquys and also during our interrogation of the Trade Representatives and other representatives of the administration, when I say that Mr. Nakasone from Japan has repeatedly refused to open markets, have done just a little, just a little, to placate us as far as publicity is concerned. I think the gentlewoman so wisely cite the incident. As soon as we failed to override that incident, it went back again, the veto, he went back again to his old games and delay after delay after delay. The Japanese market today is still a closed market. If anybody says otherwise, they do not understand or they do not know or they are lying. That is a fact, an unadulterated fact. I think my colleague agrees with me.

Mrs. BENTLEY. Very much. I mean their doors are not open even that much. Interestingly, one of our weaknesses is when we go into negotiations with the Japanese or with these other countries, I am afraid that their people are much better prepared than are our people, and that may be one of the reasons why we get beat on the head all of the time.

I will give you a specific example. Automotive repair parts, the components for repairs. Our Department of Commerce went over there in August to do some negotiations. We had developed some material in my office on the after-market parts. So we had some discussions, my administrative

assistant had some discussions over there with the Department of Commerce. We find out that those people who were going to these negotiations did not have as much material or as much knowledge on some of this as we did. I am not saying that we had very much. That was a shock and a surprise and a disappointment. We are not as well prepared, and we do not have the hard-nose negotiators going over there.

Mr. GAYDOS. I agree with my colleague, because the gentlewoman and I both have experienced in the past a chance of international Trade Ambassadors, whether it was Mr. Strauss, or Mr. Brock who is not there, or Mr. Baldrige who was there before he became Secretary, and now Yeutter and a couple of others in between. I would say they probably average around 2 years at the most. They just learn the job and, before you know it, they are replaced.

I think it is so evident that because they repeatedly come back that it just cannot be done.

For instance Sweden thumbing their noses at us, taking advantage of some of the voluntary restraint agreements that are in place, and flooding this country, particularly in speciality steel, steel tubing, which is so important for medical instrumentation and things like that, and just absolutely ignoring us like we did not exist.

I jump to another subject very fast. I know my colleague agrees with me because we discussed this personally on many occasions. We talked about the rubber industry. They wonder why in Akron, OH, and other places who were well renowned for years as a manufacturer of rubber tires, way before Michelin came in and invaded our market. They are not there anymore. They are closed.

Why? Because when you have 25 percent of your automobiles in this country being imported, there are four and sometimes five tires on an automobile coming in, well, that is where the rubber industry went. We do not have it anymore.

This has repeated itself and repeated itself and has enlarged itself.

I agree with the gentlewoman when she says, and I think she says it scholarly and I think she says it based upon the facts, that this country is in trouble, serious trouble.

I remember when a \$10 billion deficit was so outstanding. We are talking about \$200 billion and people are accepting it. We should have an actual national emergency when a \$200 billion trade deficit presents itself.

H.R. 1309, THE HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT OF 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, I apologize to my colleague, the gentlewoman from Maryland, because I did take some of her time.

I just wanted to emphasize, if I may at this time, that I deeply respect and appreciate all of the dedicated hours that the gentlewoman from Maryland has given to the Steel Caucus. The gentlewoman has done more than a yeoman's task and has been in the forefront. I want to say on this floor and for the official record that without the gentlewoman, I can say I think with authority and experience on the Steel Caucus, it would be in very dire straits. The gentlewoman has always been there to our hearings, always has been there to help us accumulate evidence, and has always been there to the presentation and the argumentation on the floor of this House. I for one appreciate it. I know that I speak on behalf of our colleagues on the Executive Committee and also the general membership of the Steel Caucus. I want to thank the gentlewoman as a matter of record.

Mr. Speaker, I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. I just want to say I appreciate those very kind remarks. I am very honored by them.

I had said most of what I wanted to say, and I do appreciate the fact the gentleman had engaged in a colloquy with me so we could bring out more of the points. I am interested in what the gentleman has to say tonight. I am sure the gentleman is going to be talking on something similar that I am equally interested in.

□ 2305

Mr. GAYDOS. Unfortunately, I have another subject matter. But I do want to say this: I think this short discussion between the two of us, and based upon authentic and acceptable facts as so adequately and intelligently presented by my colleagues is going to go a long way toward helping the general public and our citizens understand what is at stake in this very serious international trade problem that we now experience.

Mrs. BENTLEY. Mr. Speaker, I think that what we might consider, and I think we are reaching that crisis stage on this, is that we may have to consider legislating the voluntary restraint agreements into effect because they are not working. I think we may have to legislate, not the agreements, I meant the percentages on those and make sure that they are adhered to

because that is the only way our industry is going to survive.

Mr. GAYDOS. I think the gentlewoman makes a very viable point and I agree with her 1,000 percent.

Mr. Speaker, when I got back to Washington this week, I found on my desk a letter from three Cabinet officers expressing their strong opposition to H.R. 1309, the High Risk Occupational Disease Notification-Prevention Act of 1986 that I introduced last year. The three Cabinet officers, Secretaries Bowen of Health and Human Services, Brock of Labor, and Attorney General Meese have conveniently outlined the particular points of disagreement they have with this bill which I introduced.

Normally, I would not respond in this way, but because I believe that they have expressed some misconceptions about H.R. 1309, I feel it is essential that I must answer them.

To begin with, though, I would like to recap some of the history of this bill. I introduced H.R. 1309 in February 1985. In the time that has passed, the bill has been the subject of six hearings by the Subcommittee on Health and Safety and on Labor standards. The two subcommittees conducted and markup session this past May and the full Committee on Education and Labor ordered the bill reported after a markup session this past June.

Throughout the process I and my staff have expressed our willingness to meet with interested parties to consider their suggestions for improving this bill and to answer any of their questions. The bill has been amended since it was introduced and I firmly believe vastly improved. It is an important piece of legislation; it complements some of the other actions taken by the Occupational Safety and Health Administration and others in the area of occupational disease notification.

Thus, while I can recognize this administration's right to oppose the bill H.R. 1309, I cannot understand the continued misunderstanding of the bill and its components. In order to respond fully, I intend to address each of the specific objections raised in the letter from Messrs. Bowen, Brock, and Meese.

First, while the Department of Health and Human Services does have a committee to coordinate the environmental health and related programs, I seriously doubt, based upon the record, that it has the same functions as a risk assessment board as created in H.R. 1309. The committee, according to the letter given to me, is chartered to develop a balanced, objective consensus on all risk assessments and risk management procedures. The committee's function is applied generally to the population at large and is not geared to focus on the specific

risks attendant to the work place and specific worker populations.

The risk assessment board created in H.R. 1309, in the bill I sponsored, is composed of nine members. Five of those members are career or commissioned public health service officers with particular specialties such as toxicology, epidemiology, medicine, to mention three, and three other members are nongovernment physicians and at least two are expected to have a background in occupational hygiene and medicine.

The final member of the board is to be the Assistant Secretary for Health. The risk assessment board is charged with reviewing existing and forthcoming studies with the intent of identifying those worker populations and subpopulations that are at specific risk of disease because of their jobs and the substances to which they are exposed.

Let me divert just for a minute and state for the record that I have been chairman of the committee for now it is going onto, well, since 1975 or 1974. During that time, after we passed the OSHA Act some 12 years ago, when we were the only major industrial country in the world whereby we had no major piece of legislation governing the workplace and we had people working in all types of industries, no regulations, dealing with dangerous substances, and it took this country almost 200 years to pass comparable legislation. Only in the last 12 or 15 years, with other industrialized nations like West Germany, Sweden, Finland, France, who had this type of legislation in being for years, 30 and 40 years before we had it.

Not only did we get it recently, we also have a reluctant administration. The record is replete with all types of facts indicating a reluctance on the part of the administration to ask for substantially more money to make this act work. To ask for more inspectors. To illustrate the sensitivity to the working people, men and women, who are taxpayers that your Government is concerned with you. None of that has occurred. It has been a very shabby operation; it has been done with reluctance. The record speaks for itself.

The number of inspections, the type of fines that are levied, and the massive accidents that still occur today. The exposures that we have been having. For instance, the American Cancer Society has already, as a matter of public record, indicated after spending hundreds of millions if not billions of dollars that the only cure for cancer as of today is preventative medicine or preventative procedures or preventative rules.

A lot of people just pass it off if they do not have cancer, but if you or any member of your family has it or is exposed to it or is suffering from it, then you understand the sensitivity to any

early diagnosis of cancer, as the Cancer Society has said. That is the only way to fight it; you have got to diagnose it early. They give as an example the cervical cancer suffered by many women. If found in the early stages, \$500 will cure it. If left alone and discovered later, \$30,000 to \$40,000 is what it costs, and that figure is escalating without limitation. So within a few years it will probably be \$50,000 and \$100,000.

So until there is a cure for cancer, one accepted by the medical profession, it remains as a fact, an unadulterated fact, that the only way and the only attack on cancer as one of the many diseases in this country, that the only way you can fight it, the only way to conquer it now is early diagnosis. That is the nature of this bill.

This bill that I introduced is a good bill. It says that OSHA is not doing their job, or if it is doing its job or doing it in another manner, that we as a Nation have a duty to set up a risk assessment board made up of these individuals, let them meet, let them decide, looking at all the things that are manufactured in this country and let that board of intelligent individuals decide what is dangerous to that breadwinner when he goes to work; he is dealing with some radium, dealing with some isotopes, dealing with anything that is dangerous, chemical, all types of mixtures, toluene, whatever you have, dyes, any of those things that he has a right to be notified that he is working with and handling a dangerous material.

Then give him an opportunity, nothing mandatory, but give him an opportunity to go see a doctor or to get information about it, to have himself examined early. If there is any kind of disease that he has been exposed to or if he has contracted it, early treatment, which has been proven to be less costly. Let him transfer jobs if he has to.

That is the nature of this legislation which I have put together with the committee and on which we had hearings and which I am talking about.

Second in that letter that I received, according to these three Cabinet officers, the bill that I have introduced will result in substantial litigation that would impose significant costs on consumers and workers and will create a burden of tort liability and the workers compensation systems.

Insofar as these claims are concerned, H.R. 1309 in and of itself has absolutely no impact on either the tort liability structure nor the Workman's Compensation System. The bill neither makes it easier nor more difficult for a worker or anyone else to file a claim.

There may well be claims filed, either upon receipt of the notification letter or after the medical testing, but there is nothing that would prevent

any worker from filing a claim even if that worker was not one of those notified under the terms of the bill.

The concerns raised probably stem from the pilot notification program in Augusta, GA, run by the National Institute for Occupational Safety and Health. In that pilot project, more than 800 chemical workers were notified that they were at risk of bladder disease.

Of those notified, fewer than 170 filed claims totaling \$330 million. In all, 119 claims were settled, with the average settlement of about \$2,500. There were four or five settlements for as much as \$25,000 and one for about \$80,000.

That is a matter of course and would have occurred and probably ended up with more cost involved if they had not been notified at that time. This bill does not institute, instigate, nor encourage suits as such. If the man has a disease at the time he is notified, he would have the disease eventually later. He is going to sue one time or another. The bill does not manufacture lawsuits.

The third item raised by the letter from these three Government officials said that the bill may expose the Federal Government and Federal employees to immense liability, either for failure to warn or for inadequate warnings.

The Justice Department raised this issue when one of its attorney's testified before the Subcommittee on Health and Safety last November. Based on the comments, we adopted an amendment providing that the Secretary and agents of the Secretary—this includes both Federal employees as well as private employers who choose to cooperate—would not be liable for monetary damages under Federal or State law with respect to any omission or act in connection with notification.

Our attorneys on the committee assures us that this language resolves the problems of concern to the Attorney General.

The fourth item, the technical feasibility of notifying individuals in populations at risk is questionable, according to these three Government officials, especially if workers other than those involved in the study are to be notified.

Further, the costs of such notification would be considerable, they go on to claim.

I find it hard to believe that opposition to notifying workers of their risks still exists in this country. NIOSH has already proven that notification can be achieved individually. The Augusta, GA, program is not the only one that NIOSH has dealt with successfully. Another notification program has been conducted in Port Allegheny, PA,

with respect to an asbestos program there.

Beyond that, let me quote from a September 8, 1986, letter from Arthur C. Upton, M.D., professor and chairman of environmental medical at the New York University Medical Center and president of the Association of University Environmental Health Sciences Centers.

Dr. Upton writes:

What has been disputed is the feasibility of notifying these workers populations at risk. As the former director of the National Cancer Institute (NCI), I can attest to the fact that such a program can be implemented in an efficient and cost effective manner.

During my tenure at NCI, at the cost of pennies per worker, we sent millions of recipients of Social Security checks a simple printed notification recommending that they seek medical counseling if they had been exposed to asbestos during the course of their working life.

H.R. 1309 also provides for this kind of mass notice, where and when necessary.

Insofar as the costs of notification, NIOSH itself has estimated that the average cost of notification per individual is between \$40 and \$55.

It should also be noted here that while none of the authors of the letter were in their respective positions in the first term of the current administration. I am talking about Mr. Meese and others. Mr. Meese, though, was a senior advisor to the President, when NIOSH submitted a budget request to follow its Augusta notification program with a broader one. That request was rejected by this administration, unqualifiedly.

Another item raised in the letter was that the criteria for identifying workers for notification are not justifiable and could lead to notifying many workers who are not at increased risk of disease.

The real issue here is whether or not the 30-percent trigger, which triggers this notification, is a valid one. Those most strongly opposed to the 30-percent trigger, obviously, say that it cannot be justified.

On the other hand, epidemiologists such as Irving Selikoff and William J. Nicholson of the Mount Sinai Medical Center feel that the 30-percent trigger is a conservative one.

The 30-percent trigger is in an individual population group if the investigation shows that they suffer 30 percent more disease than the general public and that triggers off the notification, meaning that 30 percent more would indicate they should be notified.

Even if the trigger were at a higher level, say 40 or 50 percent, there would be workers who might be notified who would not necessarily be at risk. That does happen.

But the converse is also true. Even at the 30-percent trigger level, there will be workers who will not be notified, but who should be. And, if the

trigger is raised to a more conservative figure, there would be many more at-risk workers who might not be notified.

The real question is whether it is more important to notify some of their possibility of risk or to leave them in the dark with no warning and no effort to put them into a medical monitoring program; as provided under the bill.

Based on testimony presented to the subcommittee during its hearings, general warnings as to the risk of one's job is less likely to generate the kinds of attention to personal safety and medical testing than an individual notification would.

Further, while there may be a reaction of fear by some workers, too many workers are not going to react at all, even with the individual notification in their hands.

Beyond that, as the letter from the three Cabinet officers notes, we have included a provision covering rare diseases that would give the Risk Assessment Board more leeway.

In that same context, the committee report on H.R. 1309 speaks to the necessity of having either a member of the Board or available staff with a special background in biostatistics to assist in determining the biological plausibility of the identification process.

Another item raised by the three Cabinet officers was to the extent that current workers would be notified, OSHA's hazard communication standard already provides more efficient broader, and more effective means of communication to those workers who are at risk.

This statement would be truer if it applied to any of the 22 permanent health standards promulgated by OSHA, but it is not true with respect to the hazard communication standard, even for current employees.

The hazard communication standard is a generic labeling standard. It is aimed at warning workers that they are handling a hazardous material, be it sulfur, acid, benzene, toluene, or what have you. The material safety data sheet, which is an explanation of that item they are handling, the core element of the existing standard, is to provide such information as the chemical compound involved, the hazardous elements, if it is a compound, the various warnings with respect to flammability, explosives, and similar reactions. That is the purpose of it. The material safety data sheet also provides warnings with respect to acute and chronic health problems and provides information on personal protective equipment.

But, as I said, the hazard communication standard is a generic one. It does not say what the permissible exposure limits are to a particular substance, as the 22 permanent health

standards do. The hazard communication standard does not require or recommend periodic medical monitoring, as the permanent health standards do.

The material safety data sheet is to be available in the workplace, with access available to workers; but, there is no guarantee that it will be easily accessible.

There are shortcomings with the material safety data sheets today.

At a meeting of the American Chemical Society earlier this year, several speakers raised questions about the accuracy of the material safety data sheets. Some sheets on the same substance from different companies showed extreme variations. In one case, a known carcinogenic was so recorded on one material safety data sheet, but was not recorded as being hazardous insofar as chronic sense on a material safety data sheet by another firm.

California OSHA, 2 years ago, reviewed some 20,000 material safety data sheets and found about 80 percent failed to provide full information for the workers. The information most often missing—chronic health concerns.

How well is industry in compliance with the hazard communication standard? It is hard to say. OSHA says that in 3,520 inspections of manufacturing facilities between May 25, 1986, when the standard became fully effective, and August 13, 1986, about 700 showed evidence of alleged violations of the standard. That is roughly 20 percent of the facilities.

What we really do not know is whether or not the material safety data sheets in each plant for each of the hazardous substances is accurate. OSHA inspectors are not toxicologists and to assume that they will be able to determine more than just the most visible errors or omissions is erroneous. In fact, OSHA really does not have the skilled staff to review every material safety data sheet or even a sizable sample of them to determine whether they are accurate and complete.

In addition, the hazard communication standard applies only to workers in the manufacturing sector. OSHA has issued an advance notice of proposed rulemaking to expand the scope of the standard to all workers, but it is hard to say how long it will be before it is in place.

It must be remembered that OSHA only covers certain workers and workers working for the counties, the municipalities, the States, and, yes, the Federal Government are not presently covered by the OSHA Act.

When you consider that the courts ordered the coverage to all workers in a ruling issued in June 1985, it seems that OSHA is moving at an inordinately slow pace—just like it has on so

many other standards designed to protect the health of American workers.

Another item raised in the letter from the three Cabinet officers was that OSHA regulations require employers to inform workers of their medical and exposure records and of their right of access to those records.

That regulation, as the letter stated, went into effect in 1980. That's all well and good. But if you retired in 1979, it is too bad. You were not notified.

Also, we have some complaints from union officials that some employers haven't exactly made access to those records very easy.

Another complaint was that medical surveillance is available for those workers exposed to such substances as those covered by OSHA's 22 health standards.

As I mentioned earlier, those standards, just like the one providing access to medical and exposure records, are well and good if you were working at the time the standards went into effect or started working thereafter.

But, and I stress this point, these standards are not retroactive. If you retired, if your employer went out of business, or if you changed employers so that you were no longer in a hazardous environment, you would not get the benefit of those standards or notification.

You would still be at risk of the disease, but under current standards, you would have no way of knowing that you had handled a toxic substance or been exposed to unsafe levels.

In fact, let us assume that the exposure level for a toxic substance already covered in 1 of the 22 health standards were to be changed tomorrow. If you retired today, the chances are you would not be notified of the change, even though your risk of disease is as great or greater than the worker who had been exposed for only a short time.

So much for the points of opposition by the three Cabinet secretaries.

We have been told by the agencies that as many as 100,000 workers die each year from workplace caused cancers and other diseases and that another 400,000 are newly disabled each year by those same workplace caused diseases.

If you do not suffer from a disease, you are not going to be concerned, but if your father or a relative or your children or a relation of some sort suffers, you are going to be concerned.

□ 2330

How can we stand by in this country and watch more American men and women suffer and eventually die from diseases that we know could have been prevented?

H.R. 1309 simply seeks to prevent those deaths and disablements by eliminating the causes of those diseases. With an authorization of \$25

million for each of the first 2 years, H.R. 1309 is a cost-effective, workable notification program.

It clearly fills an important gap in the occupational health and safety sector and will complement the OSHA Act of 1970 and OSHA's activities since.

The savings to American business in preventing and reducing production losses, trimming high health insurance premiums and other medical and health program costs as well as the savings to the public health system of Social Security and Medicare more than justify the modest costs of the program.

Let me close by saying this about this bill. This bill is a very simple bill. It says that under the existing OSHA Act a lot of people are handling some very dangerous material and they are not being notified, and they are not getting available health advice, are not being sent to doctors, are not being exposed to x rays and other technical changes that we have now in detecting diseases.

This bill is aimed at saving the employer tons of money, unlimited sums of money. Workmen's compensation cases, as indicated by the statistics and the facts, are increasing so fast that the workmen's comp insurance is becoming almost prohibitive, almost confiscatory. So something has to be done along the lines so that these workmen's compensation insurance costs do not put everybody out of business.

Entrepreneurs and business people are going to refrain from going into business because paying simply for the insurance to provide the law provision of providing for the workmen's comp is going to keep them out of business.

If we want to stimulate business and activate business and ask our younger people to give us some new ideas and new concepts, we are going to have to make it economically plausible and feasible for them, and one area is workmen's compensation insurance costs.

As I mentioned before earlier, when you take a look at what it costs to cure cancer after it has progressed to the almost death stage, you are talking about thousands of dollars. An average cancer bill after a person is in the hospital, regardless of what cancer—liver, colon, what have you—runs \$40,000, \$50,000, \$80,000, \$100,000, particularly with the new type of treatments that are out. Those are great costs. That is why it costs you today \$400 and \$500 for a hospital room, and Medicare and Social Security is now in trouble, the medical portion, because the costs have escalated so rapidly that it is almost impossible to keep up with it, and it seems to be the bellwether or seems to be the oncoming concept of socialized medicine in this country, because costs are becoming confiscatory.

If we could save that cost, we could maybe preserve after a fashion our existing mode of living, the way we do business, the entrepreneur, the laissez-faire type of business enterprise that we have in this country, our fundamental democratic concept of business, to try to make a good living for as many people as are willing to work for it. That is what we are trying to do with this bill.

We are also trying to save the misery. Again, if you do not have a cancer victim in your family, if no relative of yours has ever had the disease, you do not care, or some other disease; it does not have to be cancer. If you do not experience it, you are not going to be concerned, but our obligation here in the committee, and as a nation, and particularly this subcommittee, is that we are supposed to worry about those things, and in worrying about those things we are concerned that there are going to be families and there are going to be orphans left, and there are going to be families that are going to be ripped asunder because the breadwinner was exposed to a disease and early death, and left orphans, and did not have the advice, did not have the advantage of a college education because of financial difficulties at home.

All these things come into play. We have said repeatedly that the least that this Nation owes, through the Government that we have and the committee that we serve on, is reasonable notification.

The bill works this way. If you are determined through this risk-assessment board to be working with and handling a chemical substance, and the incidence in that population work group—say putting radium on the dials of a clock—leads the risk assessment board to say, "Look, there are 30 percent more incidents of cancer"—or some other disease—"in this radium field," then they conclude that that is an area where the workers that work with this substance throughout the whole country should be notified.

That is what the bill does. It actually notifies the worker, "You're working with a dangerous substance." It goes on to tell him, since you are notified, you do not have to do anything if you do not want to. If you accept that notification, you like your job, and you are self-analytical and you do not care, or you do not want to follow it up, you do not do anything more. That is it.

But if you want to do something, they tell you. You can go to a certain center and have yourself examined. Maybe there is nothing wrong with you. Or you can go to your physician, family physician, and your family physician after he examines you, if he wants to find out the ramifications of the exposure, if any, whether you could develop a disease, whether you

have developed a disease, what the timeframes are, if that is the case, then the physician even can call certain centers and get some information and some instructions, and he can talk with them.

Maybe after you go to your physician and the physician says, "Hey, you don't have a disease. You can check back with me in a year," that is the preventive aspect. That is the least that we can do.

Not every worker working in every plant. Maybe the ones handling the pickle plant over here maybe are not going to be notified. They are not going to be notified, I do not think, because they have no evidence that I have heard of in our hearings whereby pickle packers are exposed to any particular danger. He is not going to be notified.

But on the other hand some of these people who are cleaning instruments in the dental shops and working with various chemicals are being exposed, and the incidence rate is passing that 30-percentile mark that I talked about. That group would be notified, and they would be told, "Look, you're working with a dangerous substance. If you want, you don't have to, you can go to your doctor and have him examine you."

Maybe you should change jobs, or so the doctor may tell you. Maybe the doctor will say, "Hey, you're not suffering from any disease." Maybe it is in its beginning stages. The doctor will say, "Look, there's a treatment here." The treatment may cost \$100. It costs \$100, you change jobs, or maybe within that company you move him from that job away from that dangerous chemical that he is handling and put him in another job. That is going to save him from developing a serious disease which in turn is going to be the basis of a workmen's compensation case, going to be very expensive, going to add to the cost of insurance.

That is what we are talking about, an identification, to identify where these dangers are, and notification if your work group does come in that 30 percentile that a lot of people are suffering from some type of disease from the material which you are handling. That is notification and the overall prevention.

That is the whole concept—there are some other elements to it—but that is the whole concept of the bill, what it tries to do. I think that it is necessary. OSHA is not doing that. Other countries are doing that, and I think that if we are going to, No. 1, preserve the entrepreneur way of doing business in this country, meaning free enterprise, we are going to have to make workmen's compensation a reasonable type of production expense so that the company can get into business and can carry the insurance. We are going to

do away with an awful lot of human misery.

Again I emphasize, if it does not happen to you or yours, or anybody that you know, you do not give a damn. That is human nature. But if it does, then you are very concerned.

Just to cite that, let me tell you this. Our committee some 15 years ago passed ERISA. ERISA is Employer Retirement Income Security Act. It guarantees pensions.

Today in my district and throughout this whole country companies are going out of business. They are being bought up. United States Steel, in my district I had 33,000 steelworkers 4 years ago; I now have 3,000 from United States Steel, 3,000, and the 3,000 are on strike. That is how it has changed. But yet, all those workers that I have lost, a lot of them are on pension, ERISA protects them, protects their retirement. In case United States Steel goes bankrupt, those retirees are going to receive their pension check.

Why do I bring it up? I bring it up to illustrate and to emphasize what I have said repeatedly: If it is affecting you and your pocketbook, you are going to be concerned, just like those pensioners today are so grateful for that legislation.

□ 2330

That is why we say on this act here that I am proposing that if it cures one disease before it destroys a family and before it becomes a basis of a great workmen's compensation case, it is well worth it.

Mr. Speaker, I yield back the balance of my time.

PRESERVING HOME HEALTH CARE

The SPEAKER pro tempore (Mr. GRAY of Illinois). Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 20 minutes.

Mr. ALEXANDER. Mr. Speaker, I recall a conversation about 30 years ago with the late Dan Blodgett, former judge of Mississippi County, AR, my home county.

"Judge," I asked, "what happens to people when they get too old to work and have no one to take care of things?"

"Bill," he said, "they stay home and crawl into a corner, where they shrivel up and die."

Largely because of the efforts of the Federal Government, we've made a lot of progress since then. I've always supported home health care and other programs that allow seniors to live productive, constructive, dignified lives.

Last March, I visited the home of Mrs. Hattie Graham in Marion, AR. Mrs. Graham, who is 92 years old, told me she is able to live at home and have at least one well-balanced meal a day because of help from Federal programs.

According to the East Arkansas Area Agency on Aging, the cost of services Mrs.

Graham receives under the Older Americans Act and other programs is about \$10.50 a day. If she stayed in a nursing home she would cost the Government about \$30 a day. But because of programs that help her live in her own home, she is happier and the Government saves money. The human argument and the fiscal argument are on the same side.

Mrs. Graham said she was worried about possible cuts in Older Americans Act programs, which make it possible for someone from the senior citizens center near her house to deliver a hot meal every day and help her in a number of ways.

In response to Mrs. Graham's needs and those of millions like her, the House included an increase in funding for programs conducted by the Administration on Aging in H.R. 5223, the Labor-HHS-Education appropriations bill for fiscal year 1987. I was proud to support this bill when it passed the House July 31.

But, senior citizens living at home often need more than Older Americans Act programs. These folks have their own particular medical needs, which often include sophisticated, expensive medical equipment. Because we in Government realize the value of enabling the elderly to live at home, we have allowed part B of Medicare to pay for home health services and equipment.

Medical equipment suppliers were hurt earlier this year by a misguided Health Care Financing Administration [HCFA] decision to effectively delay Medicare reimbursement by several weeks in order to cope with Gramm-Rudman cuts and build interest in the Medicare trust funds. After expressions of outrage from Congress, HCFA backed down. However, new legislative and regulatory developments may threaten the ability of older Americans to receive proper health care at home.

Provisions of the 1987 budget reconciliation bill reported by the Ways and Means Committee would reimburse home health providers only for the amount of oxygen prescribed by a patient's doctor and not for the oxygen actually used. Additionally, reimbursement for oxygen equipment would be eliminated, passing the cost for this technical and costly hardware directly to the patient—who may not be able to afford it.

When energy prices are higher there was a lot of talk around here about elderly Americans having to choose between heating and eating. I'm concerned that these proposals will make some have to choose between eating and breathing.

I am also concerned about new HCFA proposed rules that would give that agency almost limitless power to determine the rate of reimbursement for home health equipment.

At present, Medicare reimbursement for this equipment is based on regional data. Charges in a region are arrayed from lowest to highest, and reimbursement for a given piece of equipment is set at the 75th percentile of charges for that equipment in that region. HCFA has unilaterally proposed a rule that would lower that reimbursement to the 25th percentile.

Additionally, in a separate rulemaking, HCFA has proposed to give itself authority to set national reimbursement levels for home health equipment when it considers that

amount yielded under the formula I just mentioned to be too high.

In other words, the bureaucrats at HCFA want to cut home health reimbursement levels to figures lower than what 75 percent of suppliers are charging, and if they don't like that figure they want to cut reimbursement even further until they find a figure they do like.

While the effect of these proposals is not yet clear, they may send the out-of-pocket costs to home health beneficiaries through the roof. What's more, the proposals completely ignore the long-standing congressional interest in Medicare reimbursement levels.

These proposals are not constructive. They do not fit in with the ongoing effort to get Medicare patients out of the hospital or the nursing home and into their own house or apartment, when practical. And they do nothing to enhance the ability of older Americans to live with dignity.

I'm opposed to any proposal that limits the ability of senior citizens to live a fulfilling life in their own homes. This Nation owes respect to the people who helped build it. I believe part of that respect is support of home health programs. I urge Members to look hard at the reconciliation proposals on oxygen reimbursement and I urge HCFA to forget about its proposal to dictate how much elderly Americans will pay out of their own pockets for health care.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ACKERMAN (at the request of Mr. FOLEY) after 1:30 p.m. today and for September 12, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ARMEY) to revise and extend their remarks and include extraneous material:)

Mr. CRANE, for 60 minutes, on September 24.

Mr. ARCHER, for 60 minutes, on September 15.

Mr. ARCHER, for 60 minutes, on September 16.

Mr. CRANE, for 60 minutes, on September 15.

Mr. CRANE, for 60 minutes, on September 16.

Mr. COLEMAN of Missouri, for 60 minutes, on September 16.

Mr. COATS, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. PEPPER, for 5 minutes, today.

Mr. NELSON of Florida, for 5 minutes, today.

Mr. WIRTH, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FAZIO, for 5 minutes, today.

Mr. ALEXANDER, for 20 minutes, today.

Mr. HOYER, for 60 minutes, on September 12.

Mr. NATCHER, for 60 minutes, on September 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. YOUNG of Florida, on the Rangel amendment, on H.R. 5484, in the Committee of the Whole, today.

Mr. FAUNTROY, prior to the vote on the Rangel amendment, in the Committee of the Whole, today.

Mrs. LLOYD, prior to the vote on the Rangel amendment in the Committee of the Whole, today.

Mr. CHENEY, on rollcall No. 373, following the vote, in the Committee of the Whole, today.

Mr. GARCIA, during debate on the Rangel amendment, in the Committee of the Whole, today.

Mr. LUNGREN, and to include extraneous matter, in the Committee of the Whole, today.

Mr. WORTLEY, following rollcall 374, in the Committee of the Whole, today.

(The following Members (at the request of Mr. ARMEY) and to include extraneous matter:

Mr. SHUMWAY.

Mr. PACKARD.

Mr. GALLO in two instances.

Mr. FRENZEL.

Mr. McGRATH.

Mr. GEKAS in two instances.

Mr. LENT.

Mr. FISH.

Mr. SCHAEFER.

Mr. LIGHTFOOT in two instances.

Mr. KINDNESS.

Mr. LAGOMARSINO.

Mr. YOUNG of Florida.

Mr. ROGERS.

Mr. KEMP.

Mr. CAMPBELL.

Mr. GILMAN in two instances.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:

Mr. TRAFICANT.

Mr. DIXON.

Mr. MRAZEK.

Mr. KILDEE.

Mr. TALLON.

Mr. GORDON.

Mr. GUARINI.

Mrs. SCHROEDER.

Mr. MATSUI in two instances.

Mr. DONNELLY.

Mr. GARCIA in two instances.

Mr. MARTINEZ.

Mr. WYDEN.

Mr. DELLUMS.

Mr. FAZIO.

Mr. MAVROULES.

Mr. ORTIZ.

Mr. CLAY in two instances.

Mr. LEVINE of California in two instances.

Mr. SCHEUER.

Mr. WALGREN.

Mr. BONKER.

SENATE JOINT RESOLUTION REFERRED

Joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 405. Joint resolution to designate September 11, 1986, as "9-1-1 Emergency Number Day"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1529. An act for the relief of Gerald M. Hendley;

H.R. 1783. An act for the relief of Mary E. Stokes;

H.R. 2316. An act for the relief of Paulette Mendes-Silva; and

H.J. Res. 580. Joint resolution to designate the week beginning September 7, 1986, as "National Freedom of Information Act Awareness Week."

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2462. An act to provide for the awarding of a special gold medal to Aaron Copland.

ADJOURNMENT

Mr. GAYDOS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly at 11 o'clock and 41 minutes p.m., under its previous order, the House adjourned until tomorrow, Friday, September 12, 1986, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4193. A letter from the Director, the Office of Management and Budget, transmitting a cumulative report on rescissions and deferrals of budget authority as of September 1, 1986, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 99-265); to the Committee on Appropriations and ordered to be printed.

4194. A letter from the Deputy Assistant Secretary of Defense, transmitting notification that the Department of the Navy intends to exclude the clause from a contract concerning examination of records by the

Comptroller General, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

4195. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of the intent to issue a commercial export license involving the reconfiguration of five Israeli-owned Arava 202 aircraft for electronic warfare capability for the Government of Israel, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

4196. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report on political contributions by Ronald DeWayne Palmer, of the District of Columbia, to be Ambassador to Mauritius, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4197. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report of political contributions by James Roderick Lilley, of Maryland, as Ambassador and Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4198. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report on political contributions by David A. Korn, of the District of Columbia, as Ambassador and Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4199. A letter from the Assistant Inspector General for Administration, Office of the Inspector General, Department of Agriculture, transmitting notice of a new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4200. A letter from the Secretary of Health and Human Services, transmitting a report on the inclusion of hospitals located outside of the 50 States under prospective payment system for purposes of Medicare reimbursement, pursuant to 42 U.S.C. 1395ww nt (Pub. L. 98-21, sec. 603(a)(4)); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHEAT: Committee on Rules. H. Res. 548. Resolution providing for the consideration of motion to concur in the Senate amendment to H.R. 4868 an act to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes. (Rept. 99-814. Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. EMERSON (for himself and Mr. HUCKABY):

H.R. 5499. A bill to amend the Agricultural Act of 1949 to remove the authority of the Secretary of Agriculture to reduce the soybean loan rate for crop years 1986 and 1987 and to require the Secretary to implement a marketing loan or a producer option payment program for soybeans for such crop years; to the Committee on Agriculture.

By Mr. RUSSO (for himself, Mr. FAZIO, and Mr. MILLER of California):

H.R. 5500. A bill to allow the Tax Reform Act of 1986 to be applied and administered as if the 3-year basis recovery rule applicable to employees' annuities had not been repealed; to the Committee on Ways and Means.

By Mr. FLORIO (for himself, Mr. COATS, and Mr. RAHALL):

H.R. 5501. A bill to amend the Railroad Unemployment Insurance Act to assure sufficient resources to pay benefits under that act, to increase the maximum daily benefit provided under that act, and for other purposes; jointly, to the Committees on Energy and Commerce, and Ways and Means.

By Mr. GLICKMAN (for himself and Mr. SLATTERY):

H.R. 5502. A bill to amend title 28, United States Code, to designate Lawrence, KS, as a place of holding court for the district of Kansas; to the Committee on the Judiciary.

By Mr. KINDNESS:

H.R. 5503. A bill to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes; to the Committee on Government Operations.

By Mr. MOORE:

H.R. 5504. A bill to amend the Agricultural Act of 1949 to require marketing loans or production option payments for soybeans; to the Committee on Agriculture.

By Mr. VANDER JAGT (for himself and Mr. GOODLING):

H.R. 5505. A bill to increase temporarily the duty on apple juice; to the Committee on Ways and Means.

By Mr. BONKER (for himself, Mr. ROTH, and Mr. MICA):

H.R. 5506. A bill to amend the International Claims Settlement Act of 1949 to provide that the value of claims be based on the fair market value of the property taken; to the Committee on Foreign Affairs.

By Mr. MARTINEZ:

H.J. Res. 721. Joint resolution to designate the week of October 12, 1986, through October 18, 1986, as "National Job Skills Week"; to the Committee on Post Office and Civil Service.

By Mr. SWINDALL:

H.J. Res. 722. Joint resolution to designate the week beginning January 25, 1987, as "National Productivity Improvement Week"; to the Committee on Post Office and Civil Service.

By Mr. SHUMWAY (for himself and Mr. DORNAN of California):

H. Con. Res. 389. Concurrent resolution expressing the continuing support of the Congress for the normalization of relations between Egypt and Israel and calling for resolution of the Taba territorial dispute in accordance with the 1979 Treaty of Peace; to the Committee on Foreign Affairs.

By Mr. FASCELL (for himself, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. BONKER, Mr. STUDDS, Mr. MICA, Mr. BARNES, Mr. WOLPE, Mr. CROCKETT, Mr. GEJENSON, Mr. DYMALLY, Mr. LANTOS, Mr. KOSTMAYER, Mr.

TORRICELLI, Mr. SMITH of Florida, Mr. BERMAN, Mr. REID, Mr. LEVINE of California, Mr. FEIGHAN, Mr. WEISS, Mr. ACKERMAN, Mr. MACKEY, Mr. UDALL, Mr. GARCIA, Mr. BROOMFIELD, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. ROTH, Mr. SNOWE, Mr. HYDE, Mr. SOLOMON, Mr. BEREUTER, Mr. SILJANDER, Mr. ZSCHAU, Mr. DORNAN of California, Mr. SMITH of New Jersey, Mr. MACK, Mr. DEWINE, Mr. BURTON of Indiana, Mr. MCCAIN, Mr. OBEY, Mr. CONTE, Mr. COURTER, Mr. HALL of Ohio, Mr. HENRY, Mr. LEHMAN of Florida, Mr. LEWIS of California, Mr. MOODY, Mr. MRAZEK, and Mr. PETRI):

H. Res. 546. Resolution commending the Peace Corps, on the occasion of its 25th anniversary, for its dedication to the promotion of world peace and friendship; to the Committee on Foreign Affairs.

By Mr. GILMAN (for himself, Mr.

FASCELL, Mr. BROOMFIELD, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. MICA, Mr. BARNES, Mr. WOLPE, Mr. CROCKETT, Mr. GEJENSON, Mr. DYMALLY, Mr. LANTOS, Mr. SMITH of Florida, Mr. REID, Mr. LEVINE of California, Mr. WEISS, Mr. UDALL, Mr. GARCIA, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. ROTH, Mr. SNOWE, Mr. HYDE, Mr. SOLOMON, Mr. BEREUTER, Mr. SILJANDER, Mr. DORNAN of California, Mr. MACK, Mr. DEWINE, Mr. MCCAIN, Mr. SMITH of New Jersey, and Mr. ZSCHAU):

H. Res. 547. Resolution expressing the sense of the House of Representatives that the President should convene a summit meeting of world leaders to adopt a unified, effective program against international terrorism; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 864: Mrs. BURTON of California.
H.R. 988: Mr. PEASE.
H.R. 1125: Mr. SLAUGHTER.
H.R. 1126: Mr. SLAUGHTER.
H.R. 1128: Mr. SLAUGHTER.
H.R. 1129: Mr. SLAUGHTER.
H.R. 1780: Mr. BUSTAMANTE, Mr. HAWKINS, Mr. NIELSON of Utah, Mr. SCHUETTE, and Mrs. SMITH of Nebraska.
H.R. 2539: Mr. YOUNG of Florida.
H.R. 3505: Mr. GARCIA and Mr. HYDE.
H.R. 3845: Mr. MARTINEZ.
H.R. 4029: Mr. GONZALEZ and Mr. BOLAND.
H.R. 4223: Mr. DYMALLY and Mrs. BURTON of California.
H.R. 4413: Mr. FRANK, Mr. GARCIA, Mr. KOSTMAYER, Mr. MORRISON of Connecticut, Mr. RICHARDSON, and Mr. WEAVER.
H.R. 4439: Mr. CARPER, Mr. SKEEN, Mr. SHARP, and Mr. HENRY.
H.R. 4469: Mr. FAUNTROY.
H.R. 4471: Mr. FAUNTROY.
H.R. 4520: Mr. STRANG.
H.R. 4535: Mr. DYMALLY, Mr. DELLUMS, Mr. CONYERS, Mrs. BENTLEY, Mr. GINGRICH, Mr. TOWNS, Mr. GILMAN, and Mr. ANDERSON.
H.R. 4633: Mr. BOULTER, Mr. HUTTO, Mr. McCOLLUM, and Mr. ANDERSON.
H.R. 4711: Mr. BROOKS, Mr. McCOLLUM, Mr. WOLPE, Mr. TORRES, and Mr. IRLAND.
H.R. 4714: Mr. CLINGK.
H.R. 4719: Mr. SWEENEY.
H.R. 4755: Mr. CHAPPELL.

H.R. 4788: Mr. CRAIG and Mr. MOLLOHAN.
 H.R. 4807: Mr. SKELTON.
 H.R. 4828: Mr. SWEENEY.
 H.R. 4838: Mr. WIRTH.
 H.R. 4853: Mr. EMERSON.
 H.R. 4872: Mr. LUNDINE.
 H.R. 4922: Mr. LUKE.
 H.R. 4953: Mr. DELAY and Mr. BARNARD.
 H.R. 4984: Mr. EMERSON.
 H.R. 5051: Mr. SCHUMER, Mr. BEDELL, Mr. HORTON, Mrs. JOHNSON, Mr. SMITH of Florida, Mr. GEJDENSON, Mr. BRYANT, Mr. FISH, Mr. WISE, Mr. BARNARD, Mr. BOEHLERT, Mr. HUGHES, Mr. KLECZKA, Mr. LEVINE of California, Mr. PORTER, Mr. BONKER, Mr. SCHUEER, Mr. OBERSTAR, Mr. UDALL, Mr. BROWN of California, Mr. FRANK, Mr. WHEAT, Mr. MURTHA, Mr. MRAZEK, Mr. HAYES, Mr. BEILSON, Mr. WEAVER, Mr. ACKERMAN, and Mr. WOLFE.
 H.R. 5103: Mr. MARTINEZ.
 H.R. 5121: Mrs. KENNELLY.
 H.R. 5127: Mr. MARTINEZ.
 H.R. 5131: Mr. DYSON.
 H.R. 5184: Mr. BOSCO and Mr. GORDON.
 H.R. 5195: Mr. FEIGHAN, Mr. RUSSO, Mr. ECKART of Ohio, Mr. WALDON, Mr. MARTINEZ, and Mr. HAWKINS.
 H.R. 5275: Mr. HAYES and Mr. BARTON of Texas.
 H.R. 5304: Mr. FRANK and Mr. LIGHTFOOT.
 H.R. 5360: Mr. SMITH of Florida, Mr. FASCELL, Mr. MACKAY, and Ms. KAPTUR.
 H.R. 5386: Mr. DORGAN of North Dakota and Mr. TOWNS.
 H.R. 5387: Mr. McEWEN, Mr. DORGAN of North Dakota, and Mr. TOWNS.
 H.R. 5403: Mr. STANGELAND and Mr. TOWNS.
 H.R. 5425: Mr. LELAND and Mr. FROST.
 H.R. 5427: Mr. HENRY and Ms. KAPTUR.
 H.R. 5477: Mr. LEACH of Iowa, Mr. BUSTAMANTE, Mr. HENRY, Mr. IRELAND, Mr. BROWN of Colorado, Mr. HATCHER, Mr. LENT, and Mr. GORDON.
 H.R. 5485: Mr. GUNDERSON and Mr. MONSON.
 H.R. 5488: Mr. GALLO and Mr. RAHALL.
 H.J. Res. 346: Mr. CRAIG.
 H.J. Res. 504: Ms. MIKULSKI and Mr. DE LUGO.
 H.J. Res. 535: Mr. DORNAN of California, Mrs. HOLT, Mr. MRAZEK, Mr. McDADE, Mr. BEILSON, Mr. LAGOMARSINO, Mr. WAXMAN, Mr. SMITH of Florida, Mr. HUGHES, Mr. YOUNG of Florida, Mr. CONTE, Mr. NEAL, Mr. FISH, and Mr. MINETA.
 H.J. Res. 550: Mr. SMITH of Florida, Mr. DAUB, Mr. MOODY, Mr. MACK, Mr. STARK, Mr. CALLAHAN, Mr. SKELTON, Mr. DASCHLE, Mr. RALPH M. HALL, Mr. WOLF, Mr. NEAL, Mr. FUSTER, Mrs. BOXER, Mr. TOWNS, Mr. FAZIO, Mr. APPELGADE, Mr. DYMALLY, Mr. DWYER of New Jersey, Mr. KOLBE, Mr. BRYANT, Mrs. LLOYD, Mr. MORRISON of Connecticut, Mr. ANTHONY, Mr. BURTON of Indiana, Mr. WALGREN, Mrs. BENTLEY, Mr. LANTOS, Mr. HERTEL of Michigan, Mr. EARLY, Mr. FUQUA, Mr. BEDELL, and Ms. KAPTUR.
 H.J. Res. 588: Mr. GARCIA, Mr. YOUNG of Florida, Mr. COBEY, Mr. MACK, Mr. SKELTON, Mr. MILLER of Washington, Mr. STOKES, Mr. SWINDALL, Mr. ANTHONY, Mr. DEWINE, Mr. GALLO, Mr. KOSTMAYER, Mr. KEMP, Mr. OBERSTAR, and Mr. WIRTH.
 H.J. Res. 638: Mrs. BOXER, Mr. KOLTER, Mr. BADHAM, Mr. McKERNAN, Mr. PURSELL, Ms. SNOWE, Mr. COLEMAN of Missouri, Mr. McEWEN, Mrs. BURTON of California, Mr. FORD of Michigan, Mr. EMERSON, Mr. MORRISON of Connecticut, Mr. VENTO, Mr. MURPHY, Mr. MOAKLEY, Mr. KINDNESS, Mr. BUSTAMANTE, Mr. McGRATH, Mr. FUSTER, Mr. HATCHER, Mr. FRENZEL, Mr. DIOGUARDI,

Ms. OAKAR, Mr. BEVILL, Mr. LEHMAN of Florida, Mr. McDADE, Mr. GUARINI, Mr. DE LA GARZA, Mr. GALLO, Mr. WILSON, Mr. GREEN, Mr. LOTT, Mr. LIVINGSTON, Mr. LIGHTFOOT, Mr. MACK, Mr. FEIGHAN, Mr. DASCHLE, Mr. TAUKE, and Mr. LUKE.
 H.J. Res. 653: Mr. LOTT, Mr. COBLE, and Mr. BADHAM.
 H.J. Res. 663: Mr. SWINDALL.
 H.J. Res. 675: Mr. HENRY, Mr. BERMAN, Mr. GRADISON, Mr. BRYANT, Mr. LAGOMARSINO, Mr. WORTLEY, Mr. KEMP, Mr. HORTON, Mr. BROWN of Colorado, Mr. TOWNS, Mrs. KENNELLY, Mr. DANNEMEYER, Mr. ANNUNZIO, Mr. BURTON of Indiana, Mr. LEACH of Iowa, Mr. HAMILTON, Mr. GRAY of Pennsylvania, Mr. PRICE, Mr. DICKINSON, Mr. SCHULZE, Mr. ROE, and Mr. KINDNESS.
 H.J. Res. 684: Mr. LOWERY of California, Mr. TORRICELLI, Mr. COUGHLIN, Mrs. BENTLEY, Mr. CARPER, Mr. CHANDLER, Mr. COMBEST, Mr. EARLY, Mr. FIELDS, Mrs. BURTON of California, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. GILMAN, Mr. HAMMERSCHMIDT, Mr. HENDON, Mr. HUGHES, Ms. KAPTUR, Mrs. KENNELLY, Mr. KINDNESS, Mr. LIGHTFOOT, Mr. McKERNAN, Mrs. MEYERS of Kansas, Mr. NICHOLS, Mr. OLIN, Mr. SLAUGHTER, Mr. SCHUMER, Mr. SEIBERLING, Mr. SMITH of New Hampshire, Mr. SPENCE, Ms. SNOWE, Mr. WYDEN, Mr. YATRON, Mr. DUNCAN, Mr. FOLEY, Mrs. LONG, Mr. BARTON of Texas, Mr. CONYERS, Mr. SCHAEFER, Mr. SHELBY, and Mr. MORRISON of Connecticut.
 H.J. Res. 698: Mr. HUGHES, Mr. FEIGHAN, Mr. CROCKETT, Mr. HUTTO, Mr. DE LUGO, and Mr. LOWERY of California.
 H.J. Res. 709: Mr. MORRISON of Connecticut, Mr. ORTIZ, Mr. BOLAND, Mr. AKAKA, Mr. ROWLAND of Georgia, Mr. SCHUMER, Mr. STARK, Mr. DWYER of New Jersey, Mr. BOUCHER, Mrs. BENTLEY, Mr. McDADE, Mr. LELAND, Mr. HOYER, Mr. TORRICELLI, Mr. GREGG, Mr. TOWNS, Mr. FAZIO, Mrs. KENNELLY, Mr. FAUNTROY, Mr. TRAFICANT, Mr. NIELSON of Utah, Mr. YATES, Mr. MOAKLEY, Mr. HENRY, and Mr. MANTON.
 H.J. Res. 710: Mr. NEAL, Mr. GREEN, Mr. WILSON, Mr. BIAGGI, Mr. BOLAND, Mr. KASTENMEIER, Mr. WHITTEN, Mr. ANTHONY, Mr. LEVIN of Michigan, Ms. MIKULSKI, Mr. BURTON of Indiana, Mr. FIELDS, Mr. PURSELL, Mr. COOPER, Mr. BROOMFIELD, Mr. BARNES, Mr. BLAZ, Mr. OBERSTAR, Mr. CRANE, Mr. CAMPBELL, Mr. HERTEL of Michigan, Mr. DIOGUARDI, Mr. LEVINE of California, Mr. SMITH of New Hampshire, Mr. BERMAN, Mr. JACOBS, Mr. FAWELL, Mr. KOLTER, Mr. DEWINE, Mr. KILDEE, Mr. SISISKY, Mr. YOUNG of Missouri, Mr. HUTTO, Mr. SABO, Mr. DAVIS, Mr. EVANS of Iowa, Mr. WOLF, Mr. HOWARD, Mr. RICHARDSON, Mr. SILJANDER, Mr. GEJDENSON, Mr. BEILSON, Mr. KOLBE, Mr. ANNUNZIO, Mr. FLIPPO, Mr. MURTHA, Mr. OLIN, Mr. EDGAR, Mr. PICKLE, Mr. STARK, Mr. MOORHEAD, Mr. EARLY, Mr. SCHUETTE, Mr. PACKARD, Ms. KAPTUR, Mr. KLECZKA, Mr. HUGHES, Mr. BENNETT, Mr. BOSCO, Mr. COLEMAN of Texas, Mr. DANIEL, Mr. DERRICK, Mr. DICKINSON, Mr. ENGLISH, Mr. FASCELL, Mr. FOWLER, Mr. GALLO, Mr. HALL of Ohio, Mr. JENKINS, Mr. McKINNEY, Mr. MANTON, Mr. MILLER of California, Mr. ORTIZ, Mr. SWINDALL, Mrs. VUCANOVICH, Mr. WALDON, Mr. RALPH M. HALL, and Mr. TORRES.
 H.J. Res. 716: Mr. FAZIO, Mr. DWYER of New Jersey, Mr. HEFNER, Mr. NIELSON of Utah, Mr. JENKINS, Mr. DERRICK, Mr. DAUB, Mr. HENRY, Mr. BARTLETT, and Mr. BERMAN.
 H. Con. Res. 129: Mr. TOWNS, Mr. ROSE, Mr. SWINDALL, Mr. EMERSON, Mr. DYMALLY, Mr. GRAY of Illinois, Mr. PRICE, Mr. PANETTA, and Mr. MCCAIN.

H. Con. Res. 233: Mr. NEAL, Mr. RINALDO, Mr. MITCHELL, and Mr. EVANS of Illinois.
 H. Con. Res. 351: Mr. GILMAN, Mr. LUKE, Mr. DE LUGO, Mr. SOLARZ, Mr. FLORIO, Mr. ANDREWS, Mr. SWEENEY, Mr. ENGLISH, Mr. BENNETT, Mr. STRANG, Mr. HUBBARD, Mr. OBERSTAR, Mr. DERRICK, Mr. LELAND, Mr. MATSUI, and Mr. SHUMWAY.
 H. Con. Res. 381: Mrs. BENTLEY.
 H. Con. Res. 385: Mrs. MARTIN of Illinois, Mr. PORTER, Mr. NIELSON of Utah, Mr. ZSCHAU, and Mr. KOLBE.
 H. Con. Res. 386: Mr. ACKERMAN and Mr. SWEENEY.
 H. Con. Res. 388: Mr. DORNAN of California, Mr. LAGOMARSINO, Mr. HARTNETT, Mr. ROEMER, Mr. BERREUTER, Mr. BARNARD, Mr. SKEEN, Mr. COURTER, Mr. NELSON of Florida, Mr. LIPINSKI, Mr. ROBINSON, Mr. DANNEMEYER, Mr. ERDREICH, Mr. COMBEST, Mr. HORTON, Mr. FEIGHAN, Mr. LENT, and Mr. PEPPER.
 H. Res. 466: Mr. COLEMAN of Missouri.
 H. Res. 469: Mr. FASCELL and Mr. KILDEE.
 H. Res. 522: Mr. JEFFORDS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

477. By the SPEAKER: Petition of Enrique J.A. Candiotti, Ambassador, Argentine Republic, relative to foreign intervention in South America; to the Committee on Foreign Affairs.

478. Also, petition of the Secretary, American Bar Association, Redmond, WA, relative to individuals in prison in South Africa; to the Committee on Foreign Affairs.

479. Also, petition of the Shasta County Board of Supervisors, CA, relative to diseases contracted by former prisoners of war; to the Committee on Veterans' Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1309.

By Mr. PENNY:

—Page 6, strike out lines 3 through 7 and insert in lieu thereof the following:

(4) The term "population at risk" means an employee population exposed to hazardous occupational exposures which are associated with a rate of disease, as contrasted to comparable populations not exposed to the hazardous occupational exposure, that is (A) increased by a significant amount, and (B) not less than 30 percent greater than in such comparable population;

Page 9, after line 4, insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

(3) In identifying such populations, the Institute shall consider medical and epidemiological principles, including the following: consistency of the association, specificity of the association, strength of the association, dose-response relationship, biologic plausibility, temporal relationship, and statistical significance. The Institute shall also take into account the extent and seriousness of the risk and the consequences of notifying or failing to notify (including the implications of erroneous notification).

—Page 6, strike out lines 8 through 16 and insert in lieu thereof the following:

(5) the term "hazardous occupational exposure" means—

(A) a history of hazardous exposure for sufficient duration or sufficient intensity, or both, as to be associated with a risk for occupational disease; and

(B) a history of actual use of potentially hazardous chemical, physical, or biological agents found in the workplace; or

(C) any hazardous industrial or commercial process or activity found in the workplace which is associated with the risk of disease;

—Page 6, line 23, strike out "and", strike out lines 24 and 25, and insert in lieu thereof the following:

(8) the term "Institute" means the National Institute of Occupational Safety and Health; and

(9) the term "Board" means the Science Advisory Board established by the Secretary pursuant to section 4(d).

Page 7, strike out line 1 and all that follows through 26 and line 5 on page 8 and insert in lieu thereof the following:

SEC. 4. FUNCTION OF THE INSTITUTE.

(a) FUNCTIONS.—The Institute shall—

Page 9, lines 10 and 21, redesignate subsections (c) and (d) as subsections (b) and (c), respectively.

At each of the following locations strike out "Board" and insert in lieu thereof "Institute": page 8, line 16; page 9, lines 5, 10, 15, and 21; page 10, lines 11, 14, and 24; and page 11, line 4.

Page 10, after line 19 insert the following new subsection:

(d) ESTABLISHMENT OF SCIENCE ADVISORY BOARD.—The Secretary shall establish a Sci-

ence Advisory Board to review the findings and recommendations of the National Institute of Occupational Safety and Health pursuant to this section and to advise the Secretary concerning such findings and recommendations. The Board shall be composed of 10 members and shall include an epidemiologist, a toxicologist, an industrial hygienist, a physician specializing in occupational medicine, and an occupational health nurse. —Page 9, line 3, insert "and intensities" after "durations".

—Page 20, line 20, after the period insert the following: "In the event of a disagreement between the employee's personal physician and the medical representative of the employer, an independent medical consultant shall be retained at the employer's expense to make a final determination with respect to the necessity for such a temporary or permanent transfer."